



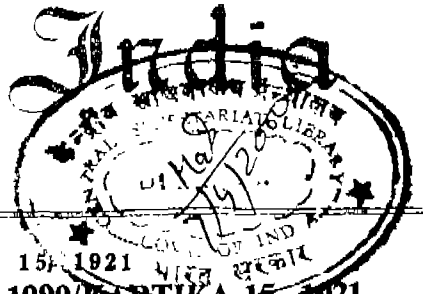
सत्यमेव जयते

# भारत का राजपत्र The Gazette of India

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NEW DELHI, SATURDAY, NOVEMBER, 6, 1999/KARTIKA 15, 1921



इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में  
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a  
separate compilation

## भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-Section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं  
Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 22 अक्टूबर, 1999

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES  
AND PENSION

(Department of Personnel & Training)

New Delhi, the 22nd October, 1999

क्र.सं. 3164:—केन्द्रीय सरकार एतद्वारा दंड प्रक्रिया  
संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा  
24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते  
हुए जम्मू और कश्मीर उच्च न्यायालय में केन्द्रीय अन्वेषण  
ब्यूरो के रिटैनेर काउंसिल श्री काशी नाथ भट्ट, अधिवक्ता  
की जम्मू और कश्मीर उच्च न्यायालय में दिल्ली विशेष पुलिस  
स्थापना द्वारा अन्वेषित मामलों से उद्भूत अभियोजन, अपीलें,  
पुनरीक्षणों अथवा अन्य विषयों का संचालन करने के लिए  
विशेष लोक अभियोजक के रूप में नियुक्त करती है।

S.O. 3164.—In exercise of the powers conferred by sub-  
section (8) of section 24 of the Code of Criminal Procedure,  
1973 (Act No. 2 of 1974), the Central Government hereby  
appoints Sh. Kanshi Nath Bhat, Advocate, a Retainer Counsel  
of Central Bureau of Investigation, in the Jammu & Kashmir  
High Court as Special Public Prosecutor for conducting  
prosecution appeals, revisions or other matters arising out of  
the cases investigated by the Delhi Special Police Establish-  
ment in the Jammu and Kashmir High Court.

[सं. 225/30/99-ए. वी. डी. II]  
हरि सिंह, अवर सचिव

[No. 225/30/99-AVD.II]  
HARI SINGH, Under Secy.

वित्त मंत्रालय

केन्द्रीय पत्रिका कर बोर्ड

(राजस्व विभाग)

नई दिल्ली, 25 अक्टूबर, 1999

सीमा शुल्क एवं केन्द्रीय उत्पाद शुल्क आयुक्त का कार्यालय  
कोयम्बतूर, 4 अक्टूबर, 1999

संख्या: 05/99-सीमा शुल्क (एन.टी.)

का०आ० 3165:— सीमा शुल्क अधिनियम 1962 की धारा 152 खण्ड (ए) के अंतर्गत भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली के दिनांक 1 जुलाई, 1964 के अधिसूचना संख्या 33/94 सीमा शुल्क (एन.टी.) के अधीन अधोहस्ताक्षरी को प्रत्यायोजित शक्तियों का प्रयोग करते हुए मै० ए.के. मेहता, आयुक्त, सीमा शुल्क एवं केन्द्रीय उत्पाद शुल्क, कोयम्बतूर एतद्द्वारा तमिलनाडु राज्य कोयम्बतूर जिला, पल्लडम तालुक के नीलाम्बूर ग्राम को सीमा शुल्क अधिनियम, 1962 की धारा 9 के अंतर्गत इ.एच.-टी.पी. योजना के अधीन 100%निर्यातानुमुख एक (ई.ओ.यु.) / 100%निर्यातानुमुख एकक (ई.ओ.यु.) के गठन के उद्देश्य से भाण्डागारण स्टेशन के रूप में घोषित करता हूँ। जैसा कि वार्षिक मंत्रालय, मद्रास निर्यात प्रक्रिया क्षेत्र, चेन्नई-600045/भारतीय मापद वेयर तकनीकी पार्कस चेन्नई द्वारा अनुमोदित है।

[फाइल नं. VIII/40/13/99-सीमा शुल्क-नीति]  
ए.के. मेहता, आयुक्त

MINISTRY OF FINANCE

(Department of Revenue)

OFFICE OF THE COMMISSIONER OF  
CUSTOMS AND CENTRAL EXCISE

Coimbatore, the 4th October, 1999

NO. 05/99 CUSTOMS (NT)

S.O. 3165.—In exercise of the powers delegated to the Undersigned vide Notification No. 33/94-Cus(NT) dated the 1st July, 1994 by the Government of India, Ministry of Finance, Department of Revenue, New Delhi, under clause (a) of Section 152 of the Customs Act, 1962, I, A. K. Mehta, Commissioner of Customs and Central Excise Coimbatore hereby declare the Village Neelambur in Palladam Taluk in the District of Coimbatore, State of Tamil Nadu, to be a Warehousing station under Section 9 of the Customs Act, 1962 for the purpose of setting up of 100 per cent EOU/100 per cent EOU under E. H. T. P. Scheme as approved by the Ministry of Commerce, Madras Export processing Zone, Chennai 600 045/ Software Technology Parks of India, Chennai.

[F. C. No. VIII/40/13/99-Cus.-POL]

A. K. METHA, Commissioner

का०आ० 3166:—यह आम सूचना के लिये अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा नीचे पैरा 3 में उल्लिखित उद्यम/औद्योगिक उपक्रम को आयकर नियमावली, 1962 के नियम 2ड के साथ पठित आयकर अधिनियम, 1961 की धारा 10 (23छ) के प्रयोजनार्थ कर निर्धारण वर्ष 1999-2000, 2000-2001 और 2001-2002 के लिये अनुमोदित किया गया है।

2. यह अनुमोदन निम्नलिखित शर्तों के अधधीन है:—

- (i) उद्यम/औद्योगिक उपक्रम आयकर नियमावली, 1962 के नियम 2ड के साथ पठित आयकर अधिनियम, 1961 की धारा 10 (23छ) के उपबंधों के अनुरूप होगा और उनकी अनुपालन करेगा।
- (ii) केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि उद्यम/औद्योगिक उपक्रम—
- (क) अक्षरचनात्मक सुविधा को जारी नहीं रखता है; अथवा
- (ख) लेखा बहियों का रख-रखाव नहीं करता है और ऐसी बहियों का आयकर नियमावली, 1962 के नियम 2ड के उपनियम (7) द्वारा अपेक्षानुसार लेखाकार द्वारा लेखापरीक्षा नहीं करवाता है; अथवा
- (ग) आयकर नियमावली, 1962 के नियम 2ड के उप नियम (7) द्वारा अपेक्षानुसार लेखापरीक्षण रिपोर्ट प्रस्तुत नहीं करता है।

3. अनुमोदित उद्यम/औद्योगिक उपक्रम हैं:—

- (i) राजस्थान राज्य विद्युत बोर्ड, विद्युत भवन, आर सी. दवेमार्ग, जयपुर-302005 की 2 (250 मेगावाट सुरतगढ़ थर्मल पावर स्टेशन फज-2 [एंड II) (फा.सं. 205/34/98-आईटीए-II)
- (ii) मै. पलाना पावर कम्पनी लि., भीलवाड़ा टाक्स ए-12, सेक्टर-1, नोएडा-201301 की जारी जिला कुल्लू, हिमाचल प्रदेश में स्थित 86 मेगावाट पलानी जलविद्युत परियोजना-(फा.सं. 205/62/98-आई टी ए-II)
- (iii) मैसर्स पी पी एन पावर जेनरेटिंग कम्पनी लिमिटेड, तीमरी मंजिल, छावनेर प्लाजा 1ए, नुगमबम्मकम हाई रोड, चेन्नई-600034 की 330.5 मेगावाट पिल्लार्पेर-मलनातूर कम्बाइंड साइकिल गैस टरबाइन पावर परियोजना, तमिलनाडु।

[फा.सं. 205/98/99-आई टी ए-II]

- (iv) मैसर्स एनर्कॉन बिड फार्म (इंडिया) लिमिटेड 44/1, मेहरा इस्टेट, एन जी एस मार्ग, विश्वरोनी, मुम्बई-400079 की जोशी भंटटी रेज, चित्रदुर्ग, जिला कर्नाटक में 3.91 मेगावाट (फेज-I) और 3.68 मेगावाट (फेज-II) बिड पावर परियोजनाएं [फा.सं. 205/105/99-आईटीए-II]
- (v) मैसर्स सुजाना पावर (गङ्गाकोनदान) लिमिटेड यूनिट 4 डी, चौथी मंजिल, रियाज गार्डन, 12 एम जी आर, सलाई, नुनगम्बक्कम, चेन्नई-600034 की गङ्गाकोनदान में 103.21 मेगावाट कम्बाइंड साइकिल गैस टरबाइन पावर परियोजना।  
[फा.सं. 205/132/99-आईटीए-II]
- (vi) मैसर्स सोम पावर लिमिटेड, 23 जॉन II, महाराणा प्रताप नगर, भोपाल-462011 की गांव गन्दीदीप, जिला रायसेन, मध्य प्रदेश में 28.25 मेगावाट आयल वेस्ट पावर प्लांट।  
[फा.सं. 205/144/99-आईटीए-II]
- (vii) मैसर्स सुजाना पावर जेन (तूतीकोरीन) लिमिटेड, यूनिट 4डी, चौथी मंजिल, रियाज गार्डन, 12 एम जी आर, सलाई, नुनगम्बक्कम, चेन्नई-600034 की तूतीकोरीन में 103.2 मेगावाट साइकिल गैस टरबाइन पावर परियोजना।  
[फा.सं. 205/145/99-आईटीए-II]
- (viii) मैसर्स रिलायन्स सलगांवकर पावर कंपनी लिमिटेड, डेम्पो ट्रेड सेंटर, चौथी मंजिल, ईडी सी काम्प्लेक्स, पट्टो प्लाजा, पणजी गोआ-403001 की सनकोआले, गोआ में 48 मेगावाट कम्बाइंड साइकिल पावर प्लांट।  
[फा.सं. 205/151/99-आईटीए-II]
- (ix) मैसर्स शालीवाहना पावर कार्पोरेशन लिमिटेड, मिनरवा हाऊस, 94, सरोजिनी देवी रोड, सिकन्दराबाद-3 की लिंगापुर, रेज रेड्डी जिला, आंध्र प्रदेश में 34.56 मेगावाट पावर प्लांट।  
[फा.सं. 205/157/99-आईटीए-II]
- [अधिसूचना सं. : 11110/फा.सं. 205/34/98-ऑर अन्य-आईटीए-II]  
कमलेश सी. वाण्य, अवर सचिव

New Delhi, the 25th October, 1999

S.O. 3166.—It is notified for general information that enterprises/industrial undertakings, listed at para (3) below have been approved by the Central Government for the purpose of section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962, for the assessment years 1999-2000, 2000-2001 and 2001-2002.

2. The approval is subject to the condition that—

- the enterprise/industrial undertaking will conform to and comply with the provisions of section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962;
- the Central Government shall withdraw this approval if the enterprise/industrial undertaking :—
  - ceases to carry on infrastructure facility; or
  - fails to maintain books of account and get such accounts audited by an accountant as required by sub-rule (7) of rule 2E of the Income tax Rules, 1962; or
  - fails to furnish the audit report as required by sub-rule (7) of rule 2E of the Income-tax Rules, 1962.

3. The enterprises/industrial undertakings approved are

- 2\*250MW Suratgarh Thermal Power Station (Unit I & II of Phase II) of Rajasthan State Electricity Board, Vidyut Bhawan, R. C. Dave Marg, Jaipur-302005. [F. No. 205/34/98-ITA-II].
- 86 MW Malana Hydroelectric project at Jari. Kullu District, Himachal Pradesh of M/s. Malana Power Company Ltd., Bhilwara Towers, A-12, Sector-I, Noida-201301. [F. No. 205/62/98-ITA-II].
- 330.5 MW Pillaiperumalnallur Combined Cycle Gas Turbine Power Project, Tamil Nadu of M/s. PPN Power Generating Company Limited, 11th Floor, Jhaver Plaza, 1A, Nungambakkam High Road, Chennai-600034. [F. No. 205/98/99-ITA-II].
- 3.91 MW (Phase I) and 3.68 MW (Phase II) Wind Power Projects at Jogimarti Range, Chitradurga District, Karnataka of M/s. Enercon Wind Farms (India) Ltd., 44/1 Mehra Estate, L.B.S. Marg, Vikhroli, Mumbai-400079. [F. No. 205/105/99-ITA-II].
- 103.21 MW Combined Cycle Gas Turbine Power Project at Gangaikondan of M/s. Sujana Power (Gangaikondan) Ltd., Unit 4D, 4th Floor, Riaz Gardens, 12 M.G.R. Salai, Nungambakkam, Chennai-600034. [F. No. 205/132/99-ITA-II].
- 28.25 MW Oil Based Power Plant at Village Mandideep, District Raisen, Madhya Pradesh of M/s. Som Power Ltd., 23, Zone-II, Maharana Pratap Nagar, Bhopal-462011. [F. No. 205/144/99-ITA-II].
- 103.2 MW Combined Cycle Gas Turbine Power Project at Tuticorin of M/s. Sujana Powergen (Tuticorin) Ltd., Unit 4D, 4th Floor, Riaz Gardens, 12 M.G.R. Salai, Nungambakkam, Chennai-600034. [F. No. 205/145/99-ITA-II].
- 48 MW Combined Cycle Power Plant at Sancoale, Goa of M/s. Reliance Salgaonkar Power Company Ltd., Dempo Trade Centre, 4th Floor, E.D.C. Complex, Patto Plaza, Panaji, Goa-403001. [F. No. 205/151/99-ITA-II].
- 34.56 MW Power Plant at Lingapur, Ranga Reddy district, Andhra Pradesh of M/s. Shalivahana Power Corporation Ltd., Minerva House, 94 Serojini Devi Road, Secunderabad-3. [F. No. 205/157/99-ITA-II].

[Notification No. 11110/F. No. 205/34/98 & others ITA-II]

KAMLESH C. VARSHNEY, Under Secy.

## मुख्य आयकर आयुक्त का कार्यालय

कलकत्ता, 7 अक्टूबर, 1999

सं. 7/99—2000

का. आ. 3167 :—आयकर अधिनियम 1961 (1961 का 43) की धारा 120 की उपधारा (1) तथा (2) के द्वारा और केन्द्रीय प्रत्यक्ष कर बोर्ड, नई दिल्ली के अधीन जारी अधिसूचना सं., 9565, फा. सं. 279/129/93 आई टी जे (पार्ट-2) दिनांक 05-07-1994 तथा एस. ओ. सं., 504, दिनांक 5-7-94 और इस संबंध में मुझे प्रदत्त अन्य शक्तियों का प्रयोग करते हुये तथा ऐसे अधिक्रमण के पूर्व किये गये अथवा करने के लिए छोड़े गये कृत्यों को छोड़कर इस दिशा में जारी सभी पूर्व अधिसूचनाओं का आंशिक संशोधन तथा अधिक्रमण करते हुये मैं मुख्य आयकर आयुक्त, कलकत्ता एतद्द्वारा निर्देश देता हूं, कि संलग्न अनुसूची के कालम 2 में विनिर्दिष्ट इस क्षेत्र के आयकर आयुक्त (अपील) ऐसे व्यक्तियों के संबंध में अपने कृत्यों का पालन करेंगे जिनके आयकर अथवा धनकर अथवा दानकर अथवा अतिकर अथवा व्याजकर अथवा व्ययकर अथवा संपदा शुल्क का निर्धारण कालम 3 में विनिर्दिष्ट आयकर प्राधिकारियों/निर्धारण अधिकारियों के द्वारा आयकर अधिनियम, 1961 की धारा 246 की उपधारा (2) के खंड (ए) से (एच) तक धनकर अधिनियम, 1957 (1957 का 27) की धारा 23 की उपधारा (1-ए) के खंड (ए) से (ई) तक, दानकर अधिनियम, 1958 (1958 का 18) की धारा 22 (1ए) के खंड (ए) से (ई) तक, कम्पनी (लाभ) अतिकर अधिनियम 1984 (1984 का 7) की धारा 11 की उपधारा (1), व्ययकर अधिनियम, 1987 (1987 का 35) की धारा 22 की उपधारा (1), संपदा शुल्क अधिनियम, 1953 की धारा 62 और व्याज कर अधिनियम, 1974 (1974 का 45) की धारा 15 की उपधारा (1) में उल्लिखित किन्हीं आदेशों से व्यधित हों।

2. जहां एक आयकर सर्कल सं. आ. आ. का वार्ड, रेंज अथवा विशेष रेंज या उनके अंश इस अधिसूचना के द्वारा एक चार्ज से दूसरे चार्ज में स्थानांतरित हो गए हों, इस अधिसूचना के प्रभावी होने के तुरंत पहले की तिथि से आयकर आयुक्त (अपील) के पास उन आयकर वार्ड/सर्कल/विशेष रेंज अथवा उनके अंश में हुई निर्धारण से उद्भूत अपील लंबित होतो इस अधिसूचना के लागू होने की तिथि से उन विशेष वार्ड/सर्कल विशेष रेंज अथवा उनके अंश स्थान-न्तरित किये गये हैं।

यह आदेश इस आदेश की तिथि से प्रभावी होगा।

## अनुसूची

## आयकर आयुक्त (अपील) का क्षेत्राधिकार

क्र. सं.	आयकर आयुक्त (अपील) का पद नाम	क्षेत्राधिकार
1	2	3
1.	आयकर आयुक्त (अपील)—1, कल.	<p>(क) सं. आ. आ., रेंज-1, कल. के अधीन कार्यरत सभी निर्धारण अधिकारी</p> <p>(ख) सं. आ. आ., वि. रें.-11, कल. तथा/या सं. आ. आ., वि. रें.-11, कल. के अधीनस्थ सभी निर्धारण अधिकारी</p> <p>(ग) सं. आ. आ., वि. रें.-22, कल. तथा/या सं. आ. आ., वि. रें.-22, कल. के अधीनस्थ सभी निर्धारण अधिकारी</p> <p>(घ) सं. आ. आ. वि. रें.-7, कल. तथा/या सं. आ. आ., वि. रें.-7, कल. के अधीनस्थ सभी निर्धारण अधिकारी</p> <p>(ङ) सं. आ. आ., रें.-21, कल. के अधीन कार्यरत सभी निर्धारण अधिकारी</p> <p>(च) सं. आ. आ., रें.-11, कल. के अधीन कार्यरत सभी निर्धारण अधिकारी</p>



1	2	3
2.	आयकर आयुक्त (अपील)—6, कल.	(क) निम्न के अधीन कार्यरत सभी निर्धारण अधिकारी :— (1) सं. आ. आ., रें.—7, कलकत्ता (2) सं. आ. आ., रें.—22, कलकत्ता (3) सं. आ. आ., रें.—15, कलकत्ता (4) सं. आ. आ., रें.—20, कलकत्ता (ख) सं. आ. आ., वि. रें.—1, कल. तथा/या सं. आ. आ., वि. रें.—1, कल. के अधीनस्थ सभी निर्धारण अधिकारी
3.	आयकर आयुक्त (अपील)—10, कलकत्ता	(क) निम्न के अधीन कार्यरत सभी निर्धारण अधिकारी (1) सं. आ. आ., जलपाईगुड़ी रेंज, जलपाईगुड़ी (2) सं. आ. आ., रें. सिलिगुड़ी रें. सिलिगुड़ी (3) सं. आ. आ., रेंज—6, कलकत्ता (ख) सं. आ. आ., वि. रें. जलपाईगुड़ी तथा/अथवा सं. आ. आ., वि. रें. जलपाईगुड़ी के अधीनस्थ सभी निर्धारण अधिकारी (ग) सं. आ. आ., वि. रें.—10, कल. तथा/या सं. आ. आ., वि. रें.—10, कल. के अधीनस्थ सभी निर्धारण अधिकारी (घ) सं. आ. आ., वि. रें.—21, कल. तथा/या सं. आ. आ., वि. रें.—21, कल. के अधीनस्थ सभी निर्धारण अधिकारी (ङ) सं. आ. आ., वि. रें.—8, कल. तथा/या सं. आ. आ., वि. रें.—8, कल. के अधीनस्थ सभी निर्धारण अधिकारी
4.	आयकर आयुक्त (अपील)—12, कलकत्ता	(क) निम्न के अधीनस्थ कार्यरत सभी निर्धारण अधिकारी (1) सं. आ. आ., रें.—10, कलकत्ता (2) सं. आ. आ. (छूट), कलकत्ता (ख) सं. आ. आ. वि. रें.—12, कल. तथा/या सं. आ. आ., वि. रें.—12, कल. के अधीनस्थ सभी निर्धारण अधिकारी (ग) केन्द्रीय प्रत्यक्ष कर बोर्ड द्वारा विनिर्दिष्टत मामले कलकत्ता में स्थानांतरित से संबंधित सहायक आयकर आयुक्त (अनुसंधान) सर्कल-2 (1) गुवाहाटी (घ) सं. आ. नि. (छूट), वि. रें., कल. तथा/या सं. आ. नि. (छूट), वि. रें., कल. के अधीनस्थ सभी निर्धारण अधिकारी
5.	स. आ. आ. (अपील)—13, कल.	(क) सं. आ. आ. रें.—13, कल. के अधीन कार्यरत सभी निर्धारण अधिकारी (ख) सं. आ. आ., वि. रें.—2, कल. तथा/या सं. आ. आ., वि. रें.—2, कल. के अधीनस्थ निर्धारण अधिकारी

## OFFICE OF THE CHIEF COMMISSIONER OF INCOME-TAX

Calcutta, the 7th October, 1999

NO. 7/99-2000

S.O. 3167—In exercise of the powers conferred by Sub-section (1) & (2) of Section 120 of the Income-tax Act, 1961 (43 of 1961) and the powers conferred on me by the Central Board of Direct Taxes, New Delhi vide Notification No. 9565, F.No.279/129/93-ITJ(Pt.-II) dated 05-07-1994 and S.O. No. 504 dated 05-07-1994 and all other powers enabling me in this behalf and in partial modification and in supersession of all earlier Notifications made in this behalf except in respect of things done or omitted to be done before such supersession, I, Chief Commissioner of Income-tax, Calcutta hereby direct that the Commissioners of Income-tax (Appeals) of this region specified in Column 2 of the Schedule attached hereto, shall perform their functions in respect of such persons assessed to Income-tax or Wealth Tax or Gift Tax or Sur Tax or Interest Tax or Expenditure Tax or Estate Duty by the Income-tax Authorities/Assessing Officers Specified in column 3 thereof as are aggrieved by any order mentioned in clauses (a) to (h) of sub-section (2) of Section 246 of the Income-tax Act, 1961, Clauses (a) to (e) of Sub-section (1 A) of Section 23 of the Wealth Tax Act, 1957 (27 of 1957), Clauses (a) to (e) of Sub-Section (1 A) of Section 22 of the Gift Tax Act, 1958 (18 of 1958), Sub-Section (1) of Section 11 of the Companies (Profit) Sur-Tax Act, 1984 (7 of 1984), Sub-section (1) of Section (22) of the Expenditure Tax Act, 1987 (35 of 1987), Section 62 of the Estate Duty Act, 1953 and Sub-Section (1) of Section 15 of the Interest Tax Act, 1974 (45 of 1974).

2. Where an Income-tax Circle, Ward of J. C. I. T. Range or Special Range or part thereof stands transferred by this Notification from one Charge to another, appeals arising out of the assessments made in that Income-tax Ward/Circle/Special Range or part thereof and pending immediately before date from which this Notification takes effect, before the Commissioner of Income-tax (Appeals) from whose charge that particular Income-tax Ward/Circle/Special Range or part thereof is transferred shall from the date from which this Notification takes effect, be transferred to and dealt with by the Commissioner of Income-tax (Appeals) to whom the said Ward/Circle/Special Range or part thereof is transferred.

This Order shall take effect from the date of this order.

## SCHEDULE

## Jurisdiction of the Commissioner of Income-tax (Appeals)

Sl. No.	Designation of the Commissioner of Income-tax (Appeals)	Jurisdiction
1	2	3
1.	Commissioner of Income-tax (Appeals-I), Calcutta.	<p>(a) All the Assessing Officers functioning under the Joint Commissioner of Income-tax, Range-1, Calcutta.</p> <p>(b) The Joint Commissioner of Income-tax, Special Range-11, Calcutta and/or all the Assessing Officers subordinate to the Joint Commissioner of Income-tax, Special Range-11, Calcutta.</p> <p>(c) The Joint Commissioner of Income-tax, Special Range-22, Calcutta and/or all the Assessing Officers subordinate to the Joint Commissioner of Income-tax, Special Range-22, Calcutta.</p> <p>(d) The Joint Commissioner of Income-tax, Special Range-7, Calcutta and/or all the Assessing Officers subordinate to Joint Commissioner of Income-tax, Special Range-7, Calcutta.</p> <p>(e) All the Assessing Officers functioning under the Joint Commissioner of Income-tax, Range-21, Calcutta.</p> <p>(f) All the Assessing Officers functioning under the Joint Commissioner of Income-tax, Range-11, Calcutta.</p>

1	2	3
2.	Commissioner of Income-tax (Appeals-VI), Calcutta.	<p>(a) All the Assessing Officers functioning under:—</p> <p>(1) The Joint Commissioner of Income-tax, Range-7, Calcutta.</p> <p>(2) The Joint Commissioner of Income-tax, Range-22, Calcutta.</p> <p>(3) The Joint Commissioner of Income-tax, Range-15, Calcutta.</p> <p>(4) The Joint Commissioner of Income-tax, Range-20, Calcutta.</p> <p>(b) The Joint Commissioner of Income-tax, Special Range-1, Calcutta and/or all the Assessing Officers subordinate to the Joint Commissioner of Income-tax, Special Range-1, Calcutta.</p>
3.	Commissioner of Income-tax (Appeals-X), Calcutta.	<p>(a) All the Assessing Officers functioning under:—</p> <p>(i) The Joint Commissioner of Income-tax, Jalpaiguri Range, Jalpaiguri.</p> <p>(ii) The Joint Commissioner of Income-tax, Siliguri Range, Siliguri.</p> <p>(iii) The Joint Commissioner of Income-tax, Range-6, Calcutta.</p> <p>(b) The Joint Commissioner of Income-tax, Special Range-Jalpaiguri and/or all the Assessing Officers subordinate to the Joint Commissioner of Income-tax, Special Range-Jalpaiguri.</p> <p>(c) The Joint Commissioner of Income-tax, Special Range-10, Calcutta and/or all the Assessing Officers subordinate to the Joint Commissioner of Income-tax, Special Range-10, Calcutta.</p> <p>(d) The Joint Commissioner of Income-tax, Special Range-21, Calcutta and/or all the Assessing Officers subordinate to the Joint Commissioner of Income-tax, Special Range-21, Calcutta.</p> <p>(e) The Joint Commissioner of Income-tax, Special Range-8, Calcutta and/or all the Assessing Officers subordinate to the Joint Commissioner of Income-tax, Special Range-8, Calcutta.</p>
4.	Commissioner of Income-tax (Appeals-XII), Calcutta.	<p>(a) All the Assessing Officers functioning under:—</p> <p>(i) The Joint Commissioner of Income-tax, Range-10, Calcutta.</p> <p>(ii) The Joint Director of Income-tax (Exemption), Calcutta.</p> <p>(b) The Joint Commissioner of Income-tax, Special Range-12, Calcutta and/or all the Assessing Officers subordinate to the Joint Commissioner of Income-tax, Special Range-12, Calcutta.</p> <p>(c) The Assistant Commissioner of Income-tax (Investigation) Circle-II (1), Guwahati, in respect of the Specific cases transferred by the Central Board of Direct Taxes to Calcutta.</p> <p>(d) The Joint Director of Income-tax (Exemption), Special Range, Calcutta and/or all the Assessing Officers subordinate to the Joint Director of Income-tax (Exemption), Special Range, Calcutta.</p>

1	2	3
5. Commissioner of Income-tax (Appeals-XIII), Calcutta.	(a) All the Assessing Officers functioning under the Joint Commissioner of Income-tax, Range-13, Calcutta.	
	(b) The Joint Commissioner of Income-tax, Special Range-2 Calcutta and/or all the Assessing Officers subordinate to the Joint Commissioner of Income-tax, Special Range-2, Calcutta.	

[No.AC/HQ/PLANNING/30/99-2000]

T. K. DAS, Chief Commissioner of Income-tax

वित्त मंत्रालय  
(आर्थिक कार्य विभाग)  
(बैंकिंग प्रभाग)

नई दिल्ली, 25 अक्टूबर, 1999

का.आ. 3168.—बैंककारी विनियम अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 15(1) के उपबंध इस अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए पंजाब एण्ड सिंध बैंक पर लागू नहीं होंगे।

[फा० सं० 12/30/99-बी.ओ.ए.]

श्रीमती पी. मोहन, निदेशक

MINISTRY OF FINANCE  
(Department of Economic Affairs)  
(Banking Division)

New Delhi, the 25th October, 1999

S.O. 3168.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendations of the Reserve Bank of India, hereby declares that the provisions of Section 15(1) of the said Act shall not apply for a period of three years from the date of this notification to the Punjab & Sind Bank.

[F. No. 12/30/99-BOA]

MRS. P. MOHAN, Director.

शहरी विकास मंत्रालय

नई दिल्ली, 20 अक्तूबर, 1999

का.आ. 3169.—भारत सरकार पाठ्य पुस्तक मुद्रणालय, चण्डीगढ़ का प्रबंधक, उक्त प्रैस के समूह "ग" और समूह "घ" के कर्मचारियों की बाबत, केन्द्रीय सिविल सेवा (वर्गीकरण, नियंत्रण और अपील) नियम, 1965 की अनुसूची में विहित अनुशासन प्राधिकारी है;

और भारत सरकार पाठ्य पुस्तक मुद्रणालय, चण्डीगढ़ में कार्यरत सर्वश्री सोहन लाल शर्मा, वफ्तरी, जगदीश चन्द सहायक जिल्दसाज, अमरीक सिंह II, सहायक जिल्दसाज, गुलजार चन्द, सहायक जिल्दसाज, किशन सिंह, आफसैट मणीम अटेंडेंट, एन. पी. कालड़ा उ.श्रे. लि. के विरुद्ध

केन्द्रीय सिविल सेवा (वर्गीकरण, नियंत्रण और अपील) नियम, 1965 के नियम 14 के अधीन अनुशासनिक कार्यवाही अनुष्ठान की गई है;

और भारत सरकार पाठ्य पुस्तक मुद्रणालय, चण्डीगढ़ का प्रबंधक मामले में महत्वपूर्ण साक्षी होने के कारण, अनुशासन प्राधिकारी के रूप में वृत्त करने में असमर्थ है;

अतः अब राष्ट्रपति, केन्द्रीय सिविल सेवा (वर्गीकरण, नियंत्रण और अपील) नियम, 1965 के नियम 12 के उपनियम (2) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये, श्री एम.के. वर्धन, उपनिदेशक, मुद्रण निदेशालय, निर्माण भवन, नई दिल्ली को भारत सरकार पाठ्य पुस्तक मुद्रणालय, चण्डीगढ़ के उक्त कर्मचारियों के विरुद्ध मामले में केन्द्रीय सिविल सेवा (वर्गीकरण, नियंत्रण और अपील) नियम, 1965 के नियम 11 में विनिर्दिष्ट शास्तियों में से कोई भी अधिरोपित करने में सक्षम तदर्थ अनुशासन प्राधिकारी के रूप में नियुक्त करते हैं।

[स. सी-14015/1/99-एबी/मद्रण]

एस. के. विश्वास, डेस्क अधिकारी (पी.एम.पी.)

MINISTRY OF URBAN DEVELOPMENT

New Delhi, the 20th October, 1999

S.O. 3169.—Whereas the Manager, Government of India Text Books Press Chandigarh is the disciplinary authority prescribed in the Schedule to the Central Civil Services (Classification Control and Appeal) Rules, 1965 in respect of Group 'C' and Group 'D' employees of the said Press.

And whereas, disciplinary proceedings are contemplated against S/Shri Sohan Lal Sharma, Daftry, Jagdish Chander, Asstt. Binder, Amrik Singh II, Asstt. Binder, Gulzar Chand, Asstt. Binder, Kishan Singh, Offset, Machine Attendant and N. P. Kalda, U.D.C., working in the Government of India Text Books Press, Chandigarh, under rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965.

And whereas, the Manager, Government of India Text Books Press, Chandigarh is unable to function as the disciplinary authority on account of being a material witness in the case;

Now therefore the President, in exercise of powers conferred by clause (b) of sub-rule (2) of rule 12 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 hereby appoints Sh. S. K. Bardhan, Deputy Director in the Directorate of Printing, Nirman Bhawan, New Delhi as the ad hoc disciplinary authority competent to impose any of the penalties specified in rule 11 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 in the case against the said employees of the Government of India Text Book Press, Chandigarh

[No. C. 14015/99-AV/Ptg.]

S. K. BISWAS, Desk Officer (P.S.P.)

- |   |   |
|---|---|
| 14. कैप्टन करणजीत सिंह,<br>उपाध्यक्ष, (समन्वयन),<br>ट्रांसपोर्ट कारपोरेशन आफ<br>इंडिया लि., गुडगांव | फेडरेशन आफ इंडियन<br>चेम्बर्स आफ कामर्स एंड<br>इंडस्ट्री के प्रतिनिधि |
| 15. कैप्टन जी० वी० सैल्डन<br>उप महाप्रबंधक,<br>फोर्ब्स गोकक लि., मुम्बई                             | एसोसिएटिड चेम्बर्स आफ<br>कामर्स एंड इंडस्ट्रीज के<br>प्रतिनिधि।"      |

[सं. एल एच-11016/1/98-एसएल]

आर.के. शर्मा, अव्वर सचिव

#### MINISTRY OF SURFACE TRANSPORT

(Shipping Wing)

New Delhi, the 13th October, 1999

जल भूतल परिवहन मंत्रालय

(नौवहन पक्ष)

नई दिल्ली, 13 अक्टूबर, 1999

का.आ. 3170.—पक्षों के लिये केन्द्रीय सनाहकार समिति (प्रक्रियात्मक) नियमावली, 1976 के नियम 4 के साथ पठित दीपघर अधिनियम, 1927 (1927 का 17) की धारा 4 की उपधारा (i) के अनुसरण में केन्द्र सरकार एतद्वारा भारत सरकार, जल भूतल परिवहन मंत्रालय, (नौवहन पक्ष) की अधिसूचना सं. एल एच-11016/1/98-एसएल दिनांक 19 फरवरी, 1999 में निम्नलिखित संशोधन करती है :—

19 फरवरी, 1999 की उक्त अधिसूचना में क्रम सं. 11, 14 और 15 के स्थान पर निम्नलिखित प्रविष्टियाँ प्रतिस्थापित की जायेंगी, अर्थात्:—

- "11. कैप्टन जे० एस० गिल,      द० कंपनी आफ मास्टर  
कोर्टे मेम्बर,                      मैरिनर्ज आफ इंडिया के  
द० कंपनी आफ मास्टर              प्रतिनिधि  
मैरिनर्ज आफ इंडिया,  
नई दिल्ली-110029

S.O. 3170.—In pursuance of Sub-section (1) of Section 4 of the Lighthouse Act, 1927 (No. 17 of 1927) read with Rule 4 of the Central Advisory Committee for Lighthouses (Procedural) Rules, 1976, the Central Government hereby makes the following amendments in the Government of India, Ministry of Surface Transport (Shipping Wing) Notification No. LH-11016/1/98 SL dated 19th February, 1999.

In the said notification dated 19th February 1999, for the existing entries at S. No. 11, 14 and 15, the following entries shall be substituted, namely :—

- "11. Capt. J. S. Gill, Court Member, The Company of Master Mariners of India, New Delhi 110029.—Representative of the Company of Master Mariners of India.
14. Capt. Karanjit Singh, Vice President (Co-Ordination) Transport Corporation of India Ltd., Gurgaon.—Representative of Federation of Indian Chambers of Commerce & Industry.
15. Capt. G. V. Seldon, Dy. General Manager, Forbes Gokak Ltd., Mumbai.—Representative of the Associated Chambers of Commerce & Industry."

[F. No. LH-11016/1/98-SL]

R. K. SHARMA, Under Secy.

विज्ञान और प्रौद्योगिकी मंत्रालय

(विज्ञान और प्रौद्योगिकी विभाग)

नई दिल्ली, 28 अक्टूबर, 1999

का. आ. 3171.—मससे ब्राह्मनों प्राइवेट लिमिटेड, एक सहउद्यम कंपनी है, जिसका पंजीकृत कार्यालय ए 16/1, पूर्वी मार्ग, वसन्त विहार, नई दिल्ली-110057 में स्थित है, जो अनुसंधान और विकास उपकर अधिनियम, 1986 (1986 का 32) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 2 के खंड (इ) के अधीन एक औद्योगिक समुत्थान है (जिसे इसमें इसके पश्चात् उक्त औद्योगिक समुत्थान कहा गया है);

और केन्द्रीय सरकार का यह समाधान हो गया है कि लोकाहित में ऐसा करना समीचीन है कि उक्त औद्योगिक समुत्थान को उक्त अधिनियम की धारा 3 के अधीन संदेय उपकर के संदाय से छूट दी जाए:

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 द्वारा प्रदत्त शक्तियों का प्रयोग कर हुए, उक्त औद्योगिक समुत्थान को, सविधा सं. बी एम/10/01/001 (356/07501739/98817) तारीख 9 जुलाई, 1999 में निर्दिष्ट औद्योगिक के आयात के लिए, उक्त अधिनियम की धारा 3 के अधीन सम्पूर्ण संदेय उपकर के संदाय से निम्नलिखित शर्तों के अधीन रहते हुए छूट देती है, अर्थात्:—

- (i) ऐसी प्रौद्योगिकी का उपयोग उसी प्रयोजन के लिए किया जाएगा जिसके लिए इसका आयात किया जाता है।
- (ii) ऐसी प्रौद्योगिकी का, विज्ञान और प्रौद्योगिकी मंत्रालय, विज्ञान और प्रौद्योगिकी विभाग, नई दिल्ली की पूर्ण अनुज्ञा के बिना विक्रय, व्ययन, दान, उधार, आवान-प्रदान और विभक्त नहीं किया जाएगा;
- (iii) पर (i) और (ii) में उल्लिखित शर्तों के पूरा न होने की दशा में, उक्त औद्योगिक समुत्थान सम्पूर्ण उपकर का संदाय करने के लिए दायी होगा;
- (iv) इस अधिसूचना के अधीन प्रदान की गई छूट, तत्समय प्रवृत्त किसी अन्य विधि के अधीन किसी कर या शुल्क के संदाय की किसी दायिता पर कोई प्रतिकूल प्रभाव नहीं डालेगी;
- (v) यह अधिसूचना राजपत्र में इसके प्रकाशन की तारीख से दस वर्ष की अवधि के लिए विधिमान्य होगी।

[सं. डीएस-टी/टीटी/उपकर/1999-2000]

पी. एस. गोरीशंकर, वैज्ञानिक "जी"

#### MINISTRY OF SCIENCE AND TECHNOLOGY

(Department of Science and Technology)

New Delhi, the 28th October, 1999

S.O. 3171.—Whereas, M/s. BrahMos Private Limited, a joint venture company having registered office at A-16/1, Poorvi Marg, Vasant Vihar, New Delhi-110057 is an industrial concern thereafter referred to the said industrial concern under clause (c) of section 2 of the Research and Development Cess Act, 1986 (32 of 1986) (hereinafter referred to the said Act);

And whereas, the Central Government is satisfied that it is expedient so to do in the public interest, to exempt the said industrial concern from the payment of cess payable under section 3 of the said Act;

Now, therefore, in exercise of the powers conferred by section 7 of the said Act, the Central Government, hereby exempts the said industrial concern from the payment of whole of the cess payable under section 3 of the said Act, for the import of technology referred in contract No. BM/10/01/001(356/07501739/98817) dated 9th July, 1999, subject to the following conditions, namely:—

- (i) such technology shall be used for the purpose for which it is imported;
- (ii) such technology shall not be sold, disposed of, gifted, loaned, exchanged or parted away, without prior permission of the Department of Science and Technology, Ministry of Science and Technology, New Delhi;
- (iii) the said industrial concern shall be liable to pay entire cess in case of non-fulfilment of conditions mentioned in (i) and (ii) above;

(iv) the exemption granted under this notification shall be without prejudice to any other liability to pay any tax or duty under any other law for the time being in force;

(v) this notification shall be valid for a period of ten years from the date of publication in the Official Gazette.

[No. DST/IT/Cess/1999/2000]

P. S. GOURISHANKAR, Scientist 'G'

विद्युत मंत्रालय

नई दिल्ली, 16 अगस्त, 1999

का.आ. 3172:—सार्वजनिक स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा-3 के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा नीचे दी गई तालिका के कालम (i) में उल्लिखित एक सांविधिक प्राधिकरण के अधिकारी जो कि भारत सरकार के राजपत्रित अधिकारी के समकक्ष है, को कथित अधिनियम के प्रयोजनों के लिए सम्पदा अधिकारी नियुक्त करती है और वह उल्लिखित तालिका के कालम-2 में संबंधित प्रविष्ट में निर्दिष्ट सार्वजनिक स्थानों के बारे में कथित अधिनियम के द्वारा अथवा उसके अंतर्गत सम्पदा अधिकारी को प्रदत्त की गई शक्तियों का उपयोग कर सकेगा और सम्पदा अधिकारी की सौंपे गए कर्तव्यों का पालन करेगा।

तालिका	
अधिकारी का नाम व पद	सार्वजनिक स्थलों की श्रेणियों तथा क्षेत्राधिकार की सीमा
1	2
1 श्री श्याम कृष्णा प्रसाद, प्रबंधक राष्ट्रीय ताप विद्युत निगम लि. (नगर प्रशासन दल), कहलगांव टेक द्वारा और झाकधर वीथि सुपर ताप विद्युत परियोजना, नगर, जिला-भागलपुर, बिहार-राष्ट्रीय ताप विद्युत निगम, 231222 में कहलगांव सुपर झाकधर—दीप्ति नगर, ताप विद्युत परियोजना के जिला—भागलपुर बिहार, प्रशासनिक नियंत्रणाधीन इसके स्वामित्व में अथवा इससे संबंधित अथवा पट्टे पर ली गई समस्त भूमि।	

[सं. 8(6)/92-टी एच -1]

के. वी. जैकब उप सचिव

## MINISTRY OF POWER

New Delhi, the 16th August, 1999

S.O. 3172.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officer mentioned in column (1) of the Table below, being an officer of a statutory authority, and equivalent to the rank of gazetted officer of the Government of India, to be estate officer for the purposes of the said Act who shall exercise the powers conferred and perform the duties imposed on estate officers by or under the said Act, within the local limits of his jurisdiction in respect of the categories of public premises specified in the corresponding entry in column (2) of the said Table.

TABLE

Name and designation of the officer	Categories of Public premises and local limits of jurisdiction
1	2
1. Shri Shyam Krishna Prasad, Manager (Town Administration Group), Kahalgaon Super Thermal Power Project, National Thermal Power Corporation P.O. Deepti Nagar Distt. Bhagalpur Bihar, Pin. 231222.	All premises owned or belonging to or taken on lease by National Thermal Power Corporation Limited and under the administrative control of its Kahalgaon Super Thermal Power Project at P.O. Deepti Nagar, District Bhagalpur, Bihar, Pin. 231222.

[No. 8(6)/92-Th.I]

K. V. JACOB, Dy. Secy.

## संचार मंत्रालय

(डाक विभाग)

(भवन अन्तर्भाग)

शुद्धि पत्र

नई दिल्ली, 28 सितम्बर, 1999

का.आ. 3173.—डाक विभाग में सम्पदा अधिकारियों के रूप में कार्य करने के लिए नियुक्त केन्द्रीय सरकार के राज-पत्रित अधिकारियों के संबंध में निदेशालय कार्यालय की सम-संख्यक पत्र सं. दिनांक 2-1-92 के अन्तर्गत जारी की गई अधिमूचना, जो भारत के राजपत्र के भाग II-3 (ii) दिनांक 11-9-93 को प्रकाशित हुई थी, में दिनांक 3-8-99 से क्रम सं. 4 दिल्ली सर्किल के सामने निम्नलिखित संशोधन कर लिया जाय :—

क्रम	सर्किल का नाम	अधिकारियों का पदनाम	क्षेत्राधिकार
4.	दिल्ली सर्किल	आलोक पाण्डे,	दिल्ली सर्किल

सिस्टम प्रशासक  
संसद मार्ग  
मुख्य पोस्टमास्टर  
जनरल दिल्ली सर्किल  
का कार्यालय, नई दिल्ली

[सं. 2-119/90-भवन]

मीरा दत्ता, उप महानिदेशक (सम्पदा)

## MINISTRY OF COMMUNICATIONS

(Department of Post)

(Building Section)

## CORRIGENDUM

New Delhi, the 28th September, 1999

S.O. 3173.—In the Notification issued under the Directorate Office letter of even No. dated 2-1-92 in respect of the Central Govt. Gazetted officers appointed to act as Estate Officers in the Department of Post published in Gazette of India in Part. II-3(ii) dated 11-9-93. The following change may be made against Sl. No. 4 against Delhi Circle w.e.f. 3-8-99.

Sl. No.	Name of Circle	Designation of officers	Territorial Jurisdiction
4.	Delhi Circle	Alok Pande System Administrator Parliament Street O/o. Chief PMG. Delhi Circle New Delhi.	Delhi Circle

[No. 2-119/90-Bldg.]

MEERA DUTTA, Dy. Director (General Estate)

## पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 22, अक्तूबर, 1999

का.आ. 3174.— केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि आन्ध्र प्रदेश राज्य में केसनॉल्लि(पूर्व) से पार्सलपूड तक पेट्रोलियम गैस के परिवहन के लिये एक पाईप लाईन गैस अथारिटी आफ इंडिया लिमिटेड द्वारा बिछाई जानी चाहिए ;

और यह कि केन्द्रीय सरकार को प्रतीत होता है कि उक्त पाईपलाइन बिछाने के प्रयोजन के लिये उस भूमि में जिसमें उक्त पाईपलाइन बिछाए जाने का प्रस्ताव है, इस अधिसूचना से उपाबद्ध अनुसूची में वर्णित भूमि के उपयोग के अधिकार का अर्जन करना आवश्यक है।

अतः, अब, केन्द्रीय सरकार पेट्रोलियम और खनिज पाईपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1961 का 50) की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उनमें उपयोग के अधिकार का, अर्जन करने के अपने आशय की घोषणा करती है।

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति, राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध कराये जाने की तारीख से इक्कीस दिवस के भीतर, उसमें उपयोग के अधिकार का अर्जन या भूमि में पाईपलाइन बिछाने के संबंध में आप्पे, लिखित रूप में सक्षम प्राधिकारी, गैस अथारिटी आफ इंडिया लिमिटेड, के.जी. बेसिन, दानवेंपेट, राजमुन्त्री (आन्ध्र प्रदेश) को कर सकेगा।

## अनुसूची

जिला	तहसील/मंडल	ग्राम	सर्वेक्षण संख्या	अर्जन हेतु क्षेत्र (हेक्टर में)
1	2	3	4	5
पूर्व गोवावरी	अल्लवरम	अल्लवरम	603 भाग	0-1050 जी.पी.
			604-1 "	0-0300
			601-13 "	0-3000
			601-12 "	0-0300
			601-11 "	0-0250
			601-10 "	0-0500
			601-7 "	0-0025
			601-8 "	0-1100
			601-9 "	0-0100
			599-15 "	0-0350
			599-14 "	0-0350
			599-13 "	0-0450
			599-12बी "	0-0300
			599-12ए "	0-0400
			599-6 "	0-0300
			598 "	0-1050 जी.पी.
			597-1 "	0-1000
			597-2 "	0-2500



1	2	3	4	5
पूर्व गोदावरी	अरलवरम	अरलवरम	427-4 भाग	0-0025
			427-5 "	0-0500
			427-6 "	0-0800
			427-8 "	0-0800
			428-3 "	0-1200
			428-2 "	0-0800
			428-1 "	0-0900
			429-19 "	0-0200
			429-17 "	0-0100
			429-13 "	0-0200
			429-12बी "	0-0050
			429-10 "	0-0050
			439 "	0-0950
			430-5 "	0-1100
			430-9 "	0-0500
			430-10 "	0-0350
			434 "	0-0150 जी.पी.
			433-5बी "	0-0025
			433-11 "	0-0100
			433-10 "	0-0012
			435-1 "	0-0750
			412 "	0-0550
			411-4 "	0-0700
			411-3 "	0-0350
			411-2 "	0-0350
			409-8 "	0-0600
			409-4 "	0-0500
			409-3 "	0-0600
			409-1 "	0-0800
			407-15 "	0-0450
			407-14 "	0-0450
			407-1ए "	0-0025
			407-1सी "	0-0100
			406-1बी "	0-0900
			406-1ए "	0-0200
			406-4 "	0-1500
			406-3 "	0-0100
			405 "	0-0600 जी.पी.
कुल योग				3-1600
				वा
				एकड़ 7.80 सेन्ट्स

1	2	3	4	5
पूर्व गोदावरी	प्रल्लवरम	मोवल्लमुरु	63/1ई भाग	0-0636
			63/1बी ,,	0-0500
			63/1सी ,,	0-0350
			63/1ए ,,	0-0650
			64/2सी ,,	0-0575
			64/2बी ,,	0-0262
			64/2ए ,,	0-0275
			64/1बी ,,	0-0500
			64/1ए ,,	0-0575
			65/1 ,,	0-1800
			65/2 ,,	0-0750
			59 ,,	0-0475 जी.पी.
			58/3ए ,,	0-1350
			58/3बी ,,	0-0462
			56/1 ,,	0-1350
			56/2 ,,	0-1150
			56/2ए ,,	0-1000
			55/5ए ,,	0-0100
			55/5बी ,,	0-3250
			54/2 ,,	0-2100
			21 ,,	0-0225 जी.पी.
			20/4 ,,	0-0450
			19/2इ ,,	0-0600
			19/2बी ,,	0-0550
			19/2सी ,,	0-0250
			19/1बी ,,	0-0400
			19/1ए ,,	0-0750
			15/4 ,,	0-0025
			18 ,,	0-0100
			15/6 ,,	0-1400
			15/7सी 4 ,,	0-0100
			15/7सी 1 ,,	0-0150
			15/7सी 2 ,,	0-0350
			15/7सी 3 ,,	0-0100
			15/7बी 2 ,,	0-0450
			15/7बी 3 ,,	0-0325
			15/7ए ,,	0-0750

1	2	3	4	5
पूर्व गोदावरी	अन्तःकरण	मोथलजमुस	14 भाग	0-0282 जी.पी.
			9/4 ,,	0-0750
			9/15बी ,,	0-1100
			9/15ए ,,	0-0500
			9/3बी ,,	0-0575
			9/3ए ,,	0-0850
			9/2 ,,	0-0200
			10/2 ,,	0-0300
			10/1 ,,	0-0750
			10/3इ ,,	0-0225
			10/4 ,,	0-0900
			8/8ए ,,	0-0075
			8/8 बी ,,	0-0150
			8/7डी ,,	0-0400
			8/6ए ,,	0-0625
			8/6सी ,,	0-0100
			8/6बी ,,	0-1100
			8/17 ,,	0-0425
			8/18 ,,	0-0525
			8/11	0-0250 जी.पी.०
			कुल योग	3-4800
				या
				एकड़ 8-59 सेन्ट्स

[सं. एल-14014/15/99-जी.पी.]

सुनील कुमार सिंह, प्रवर सचिव

## MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 22nd October, 1999

S.O.3174.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of Petroleum Gas from Kesanapalli (East) to Pasarlupudi, Andhra Pradesh, a pipeline should be laid by the Gas Authority of India Limited;

And, whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid and which is described in the schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein ;

Any person interested in the land described in the said schedule may within twenty one days from the date on which the copies of this notification, as published in the Gazette of India are made available to the general public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to the competent authority, Gas Authority of India Limited, K. G. Basin, Danvaipet, Rajahmundry (Andhra Pradesh).

## SCHEDULE

Distt.	Tehsil	Village	Survey No.	Area to be acquired for ROU in Hectare
(1)	(2)	(3)	(4)	(5)
East Godavari	Allavaram	Allavaram	603 Part	0-1050 (G. P.)
			604-1 part	0-0300
			601-13 Part	0-3000
			601-12 Part	0-0300
			601-11 Part	0-0250
			601-10 Part	0-0500
			601-7 Part	0-0025
			601-8 Part	0-1100
			601-9 Part	0-0100
			599-15 Part	0-0350
			599-14 Part	0-0350
			599-13 Part	0-0450
			599-12 B Part	0-0300
			599-12 A Part	0-0400
			599-6 Part	0-0300
			598 Part	0-1050 G. P.
			597-1 Part	0-1000
			597-2 Part	0-2500
			427-4 Part	p-0025
			427-5 Part	0-0500
			427-6 Part	0-0800
			427-8 Part	0-0800
			428-3 Part	0-1200
			428-2 Part	0-0800
			428-1 Part	0-0900
			429-19 Part	0-0200
			429-17 Part	0-0100
			429-13 Part	0-0200
			429-12B Part	0-0050
			429-10 Part	0-0050
			439 Part	0-0950
			430-5 Part	0-1100
			430-9 Part	0-0500
			430-10 Part	0-0350
			434 Part	0-0150 G. P.

1	2	3	4	5
East Godavari	Allavaram	Allavaram	433-5B Part	0-0005
			433-11 Part	0-0100
			433-10 Part	0-0012
			435-1 Part	0-0750
			412 Part	0-0550
			411-4 Part	0-0700
			411-3 Part	0-0350
			411-2 Part	0-0350
			409-8 Part	0-0600
			409-4 Part	0-0500
			409-3 Part	0-0600
			409-1 Part	0-0800
			407-15 Part	0-0450
			407-14 Part	0-0450
			407-1 E Part	0-0025
			407-1 C Part	0-0100
			406-1 B Part	0-0900
			406-1 A Part	0-0200
			406-4 Part	0-1500
			406-3 Part	0-0100
			405 Part	0-0600 G. P.
			Total	3-1600 or AC 7-80 Cents.
East Godavari	Allavaram	Mogallamuru	63/1 E Part	0-0656
			63/1 D Part	0-0500
			63/1 C Part	0-0350
			63/1 A Part	0-0650
			64/2 C Part	0-0575
			64/2 B Part	0-0262
			64/2 A Part	0-0275
			64/1 B Part	0-0500
			64/1 A Part	0-0575
			65/1 Part	0-1800
			65/2 Part	0-0750
			59 Part	0-0475 G.P.,
			58/3 A Part	0-1350
			58/3 B Part	0-0462
			56/1 Part	0-1350
			56/2 Part	0-1150
			56/2 A Part	0-1000
			55/5 A Part	0-0100
			55/5 B Part	0-3250

1	2	3	4	5
East Godavari District	Allavaram Mandal	Mogallamuru Village	54/2 Part	0-2100
			21 Part	0-0225 G. P.
			20/4 Part	0-0450
			19/2 E Part	0-0600
			19/2 B Part	0-0550
			19/2 C Part	0-0250
			19/1 B Part	0-0400
			19/1 A Part	0-0750
			15/4 Part	0-0025
			18 Part	0-0100
			15/6 Part	0-1400
			15/7 C 4 Part	0-0100
			15/7 C 1 Part	0-0150
			15/7 C 2 Part	0-0350
			15/7 C 3 Part	0-0100
			15/7 B 2 Part	0-0450
			15/7 B 3	0-0325
			15/7 A Part	0-0750
			14 Part	0-0262 G.P.
			9/4 Part	0-0750
			9/15 B Part	0-1100
			9/15 A Part	0-0500
			9/3 B Part	0-0575
			9/3 A Part	0-0650
			9/2 Part	0-0200
			10/2 Part	0-0300
			10/1 Part	0-0750
			10/3 E Part	0-0225
			10/4 Part	0-0900
			8/8 A Part	0-0075
			8/8 B Part	0-0150
			8/7 D Part	0-0400
			8/6 A Part	0-0625
			8/6 C Part	0-0100
			8/6 B Part	0-1100
			8/17 Part	0-0425
			8/18 Part	0-0525
			8/11 Part	0-0250 G. P.
			Total	3-4800 or AC 8-59 Cents

नई दिल्ली, 3 नवम्बर, 1999

का.आ. 3175.— केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि मोटर स्प्रिट उच्चकोटि किरोसिन तेल और उच्चवर्ग डीजल के केरल राज्य में भारत पेट्रोलियम कारपोरेशन लिमिटेड इरमपानम् कोचीन, संस्थापन से तमिलनाडु राज्य के करूर में परिवहन के लिए पेट्रोनेट सी. सी.के. लिमिटेड द्वारा पाइपलाइन बिछायी जानी चाहिए।

और ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए इस अधिसूचना से उपाबद्ध अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 की 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उसमें उपभोग का अधिकार अर्जित करने के अपने आशय की घोषणा करती है।

अतः उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां जनता को उपलब्ध करा दिए जाने की तारीख से इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाने के लिए उनमें उपयोग के अधिकार के अर्जन के संबंध में अपना आक्षेप, लिखित रूप में श्री पी. कुप्पनन, सक्षम प्राधिकारी (तमिलनाडु), कोचीन, कोयम्बटूर, करूर पाइपलाइन परियोजना, प्रथम मंजिल, कोवाई टायर्स नं० 44, बालासुन्दरम रोड, कोयम्बटूर-18 पिन-641 018 को कर सकेगा।

## अनुसूची

तालुका कन्गयाम

जिला - इरोड

राज्य - तमिलनाडु

गाँव का नाम	सर्वेक्षण सं०	क्षेत्र		
		हेक्टेयर	आरे	वर्ग मीटर
कन्गयाम	916/3	0	00	16
	865	0	32	40
	862	0	33	79
	791/1	0	09	93
	822/1	0	24	67
	822/5	0	06	84
	822/7	0	06	48
	822/8	0	02	77
	824/1	0	09	32
	824/4	0	00	90
	825/2	0	33	59
	916/1	0	00	73
	919	0	03	46
	640/7	0	11	05
	664/1	0	10	24
	641/1	0	09	78
	667/9	0	05	47



(1)	(2)	(3)	(4)	(5)
	640/1	0	00	62
	640/6	0	21	93
	672	0	02	40
	673/1	0	02	20

[ सं. आर.-31015/5/98-ओ आर.-II ]

हरीश कुमार, अवर सचिव

New Delhi, the 3rd November, 1999

S. O. 3175.— Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of Motor Spirit, Superior Kerosene Oil and High Speed Diesel from Irimpanam Installation of Bharat Petroleum Corporation Limited, Irimpanam, Cochin in the state of Kerala to Karur in the state of Tamil Nadu, a pipeline should be laid by Petronet CCK Limited;

And, whereas, for the purpose of laying such pipeline it is necessary to acquire the right of user in the lands described in the schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in land described in the said Schedule may within twenty one days from the date on which the copies of the notification as published in the Gazette of India are made available to the general public, object in writing to the acquisition of the right of user therein for laying the pipeline under the land to Shri V. Kuppannan, Competent Authority (Tamil Nadu), Cochin-Coimbatore-Karur Pipeline Project, 1st Floor, "KOVAL TOWERS", No.44, Balasundaram Road, Coimbatore Pin : 641 018.

**SCHEDULE**TALUK : **KANGAYAM**DISTRICT : **ERODE**STATE : **TAMILNADU**

Name of Village	S.F. No.	AREA		
		HECTORS	ARES	SQ. MTRS.
KANGAYAM	916/3	0	00	16
	865	0	32	40
	862	0	33	79
	791/1	0	09	93
	822/1	0	24	67
	822/5	0	06	84
	822/7	0	06	48
	822/8	0	02	77
	824/1	0	09	32
	824/4	0	00	90
	825/2	0	33	59
	916/1	0	00	73
	919	0	03	48
	640/7	0	11	05
	664/1	0	10	24
	641/1	0	09	78
	667/9	0	05	47
	640/1	0	00	62
	640/6	0	21	93
	672	0	02	40
	673/1	0	02	20

नई दिल्ली, 3 नवम्बर, 1999

का.आ. 3176.— केन्द्रीय सरकार ने, पेट्रोलियम और खनिज पाईप-लाइन ( भूमि में उपयोग के अधिकार का अर्जन ) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का आ. 219 तारीख 20 जनवरी 1999 द्वारा मोटर स्ट्रिट, उच्च कोटि किरोसिन तेल और उच्च वेग डीजल के केरल राज्य में भारत पेट्रोलियम कारपोरेशन लिमिटेड के इरिपानम् कोची संस्थापन से तामिलनाडु राज्य के करूर तक परिवहन के लिए मेंसर्स सी.सी.के.लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजनार्थ उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकारों के अर्जन के अपने आशय की घोषणा की थी।

और उक्त राजपत्रित अधिसूचना की प्रतियां जनता को क्रमशः तारीख 12.02.99 से

उपलब्ध करा दी गई थी।

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसारण में समक्ष अधिकारी ने केन्द्रीय सरकार को रिपोर्ट दे दी हैं।

और केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाना चाहिए;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार अर्जित करने की घोषणा करती है;

यह और कि केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार, केन्द्रीय सरकार में निहित होने की बजाए सभी दिल्लगंमों से मुक्त होकर पेट्रोनेट सी.सी.के.लिमिटेड में निहित होंगे।

### अनुसूची

राज्य - केरल

जिला - पालाकाड

तालुका - पालाकाड

गाँव	सर्वेक्षण संख्या	क्षेत्र		
		हेक्टेयर	आरे	वर्गमीटर
(1)	(2)	(3)	(4)	(5)
1) पुद्दुशेरी (पूर्व) (खण्ड सं० - 32)	98/5	0	03	88
	99/1	0	01	21
	99/4	0	00	51
	99/5	0	10	90
	99/6	0	09	50
	99/7	0	08	98
	100/2	0	02	35
	110	0	16	58

(1)	(2)	(3)	(4)	(5)
	111/2	0	16	40
	219/1	0	17	29
	219/2	0	00	34
	220/1	0	32	01
	222/1	0	13	67
	222/2	0	04	75
	222/4	0	01	36
	222/5	0	02	94
	224/7	0	15	83
	349/5	0	16	00
	349/6	0	07	25
	349/12	0	09	57
	350/2	0	13	08
	350/5	0	09	38
	351/4	0	06	12
	351/5	0	09	73
	351/11	0	04	84
	358/1	0	00	04
	358/2	0	00	16
	358/7	0	02	23
	358/9	0	13	55
	358/11	0	08	46
	365/2	0	13	68
	366/2	0	00	31
	366/3	0	06	50
	366/4	0	12	30
	367/8	0	12	60
	367/9	0	00	80
	367/10	0	01	43
	367/11	0	00	72
	367/12	0	01	41
	368/1	0	01	61
	368/4	0	01	93
	368/5	0	05	40
	368/6	0	03	69
	370/1	0	01	30
	370/2	0	09	66
	370/3	0	12	40
	370/4	0	01	50
	371/6	0	00	22
	372/2	0	15	66

(1)	(2)	(3)	(4)	(5)
	376/3	0	07	47
	376/30	0	19	22
	377/1	0	01	53
	377/2	0	19	81
	385/1	0	14	00
	385/2	0	13	73
	385/3	0	06	05
	388/4	0	03	45
	388/5	0	10	74
	388/6	0	01	73
	388/7	0	06	01
	389/2	0	05	81
	389/3	0	00	64
	389/4	0	04	64
	389/5	0	02	18
	389/7	0	00	59
	390/5	0	00	41
	30/3	0	53	66
	31/1	0	00	14
	35/2	0	16	25
	39/2,3	0	13	18
	51	0	07	90
	42/4,5,6,7	0	31	63
	90/2,3	0	10	97
	43	0	00	30
	92/2,4,5,7,8	0	37	50
	93	0	13	30
	94/1,2	0	18	56
	97/2	0	33	06
	113/1	0	00	72
	114	0	01	80
	115	0	16	00
	121	0	20	45
	122/1,2	0	22	30
	123	0	12	62
	124/1,2	0	16	09
	124/3	0	00	54
	124/4	0	13	75
	128/4	0	00	38

(1)	(2)	(3)	(4)	(5)
	129/3,5,6,7	0	35	70
	134/1	0	00	36
2) पुद्दुशेरी (पूर्व)	142/2	0	23	04
(खण्ड सं० - 33)	142/1	0	04	00
	122/1	0	11	88
	122/3	0	10	33
	123/1	0	03	71
	125/17	0	03	82
	125/16	0	00	28
	125/15	0	02	30
	125/20	0	04	80
	125/21	0	15	43
	117	0	23	35
	113/3	0	29	52
	113/2	0	09	39
	113/4	0	24	24
	109	0	00	05
	110/2	0	01	79
	110/1	0	14	40
	95/1	0	27	12
	95/2	0	03	96
	94	0	01	98
	190/6	0	19	08
	189/1	0	01	80
	189/2	0	05	76
	189/4	0	13	68
	186/4	0	14	40
	184/3	0	07	20
	184/9	0	06	39
	178/1	0	11	52
	177/4	0	13	14
	177/5	0	04	43
	182/1	0	07	48
	182/3	0	13	09
	182/5	0	00	26
	183/8	0	03	23
	183/7	0	00	18

(1)	(2)	(3)	(4)	(5)
	141/17	0	10	44
	141/18	0	10	44
	141/1	0	26	33
	141/3	0	06	48
	141/11	0	01	45
	141/12	0	01	44
	141/13	0	00	17
	141/8	0	00	57
	158/7	0	08	10
	158/12	0	05	76
	158/3	0	01	08
	159/2	0	26	40
	159/6	0	00	30
	159/8	0	00	69
	159/7	0	03	65
	157/56	0	02	16
	157/57	0	01	88
	157/55	0	05	04
	157/4	0	05	25
	157/31	0	06	24
	157/32	0	02	68
	157/5	0	05	40
	157/6	0	02	52
	157/52	0	01	32

## तालुका - आलाधुर

3) ऐरीमयूर (खण्ड सं० - 21)	56/1	0	03	05
	56/6	0	02	06
	56/8	0	00	71
	76/16	0	01	10
	76/17	0	04	99
	76/18	0	03	56
	76/19	0	22	70
	76/20	0	01	27
	77/1	0	01	97
	80/1	0	05	31



(1)	(2)	(3)	(4)	(5)
	80/2	0	05	23
	80/9	0	01	08
	80/10	0	01	45
	80/11	0	08	86
	80/13	0	04	93
	81/3	0	06	14
	81/4	0	09	21
	82/10	0	02	97
	82/16	0	02	77
	82/17	0	03	16
	82/18	0	08	55
	83/14	0	00	29
	83/15	0	00	72
	83/19	0	13	26
	116/1	0	24	17
	116/4	0	00	89
	116/5	0	01	18
	118/1	0	40	90
	124/6	0	06	41
	124/7	0	05	40
	126/2	0	49	93
	216/2	0	05	66
	216/4	0	05	32
	216/5	0	04	18
	216/6	0	05	53
	216/7	0	03	75
	216/12	0	04	40
	219/8	0	13	49
	219/9	0	00	56
	219/10	0	15	39
	220/1	0	03	91
	222/1	0	08	72
4) आलाधूर (खण्ड सं० - 28)	80/2	0	06	75
	80/3	0	12	65
	80/8	0	05	72
	80/9	0	06	71
	81/4	0	11	36

(1)	(2)	(3)	(4)	(5)
	92/2	0	00	80
	92/3	0	13	12
	93/3	0	00	39
	93/4	0	07	46
	93/6	0	11	65
	93/7	0	00	08
	95/3	0	03	63
	95/4	0	08	27
	95/5	0	04	69
	97/1	0	01	19
	97/2	0	18	72
	97/3	0	06	67
	97/6	0	10	21
	98/1	0	04	72
	98/2	0	06	37
	105/1	0	00	96
	150/5	0	00	71
	150/7	0	08	36
	150/8	0	06	39
	150/9	0	05	51
	151/4	0	08	29
	151/6	0	05	32
	153/1	0	18	21
	153/2	0	08	14
5) कोजालमन्नम - I	182/7	0	06	86
(खण्ड सं0 - 16)	183/1	0	01	04
	183/2	0	09	64
	183/3	0	05	77
	183/5	0	01	83
	183/6	0	00	36
	188/2	0	09	06
	188/3	0	10	70
	188/4	0	03	20
	191/4	0	09	08
	191/5	0	06	80
	191/6	0	00	22
	191/7	0	06	21
	191/8	0	00	29
	403	0	09	95
	408/4	0	16	96
	409/2	0	00	70
	409/3	0	02	51
	409/4	0	01	11
	409/5	0	06	01
	409/6	0	25	93

New Delhi, the 3rd November, 1999

s. O. 3176.— Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O No. 219, Dated 20-01-99 issued under sub section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962, (50 of 1962), (hereinafter referred to as said Act), the Central Government declared its intention to acquire the right of user in the land specified in the schedule appended to that notification for the purpose of laying pipeline for the transportation of Motor Spirit, Superior Kerosene Oil and High Speed Diesel from the Irumpanam installation of Bharat Petroleum Corporation Limited, Irimpanam, Kochi, State of Kerala to Karur in the State of Tamil Nadu and a pipeline should be laid by M/s Petronet CCK Limited;

And, whereas, the copies of said Gazette notification has been made available to the public from 12-02-99;

And, whereas, the Competent Authority in pursuance of sub section (1) of section 6 of the said Act has made his report to the Central Government;

And, whereas, the Central Government, after considering the said report is satisfied that the right of user in the land specified in the schedule appended should be acquired;

Now, therefore in exercise of the powers conferred by sub section (1) of section 6 of the said Act, the Central Government hereby declared that the right of user in the Land specified in the Schedule appended to this notification are hereby acquired;

And, further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said lands shall instead of vesting in the Central Government, vest free from all encumbrances, in the Petronet CCK Limited.

### SCHEDULE

STATE: KERALA

DISTRICT : PALAKKAD

TALUK : PALAKKAD

VILLAGE	SURVEY NUMBERS	AREA		
		HECTARES	ARES	SQ.MTRS.
(1)	(2)	(3)	(4)	(5)
<b>1) PUDUSSERY (E) (BLOCK NO.32)</b>	98/5	0	03	88
	99/1	0	01	21
	99/4	0	00	51
	99/5	0	10	90
	99/6	0	09	50
	99/7	0	08	98
	100/2	0	02	35
	110	0	16	58

(1)	(2)	(3)	(4)	(5)
	111/2	0	16	40
	219/1	0	17	29
	219/2	0	00	34
	220/1	0	32	01
	222/1	0	13	67
	222/2	0	04	75
	222/4	0	01	36
	222/5	0	02	94
	224/7	0	15	83
	349/5	0	16	00
	349/6	0	07	25
	349/12	0	09	57
	350/2	0	13	08
	350/5	0	09	38
	351/4	0	06	12
	351/5	0	09	73
	351/11	0	04	84
	358/1	0	00	04
	358/2	0	00	16
	358/7	0	02	23
	358/9	0	13	55
	358/11	0	08	46
	365/2	0	13	68
	366/2	0	00	31
	366/3	0	06	50
	366/4	0	12	30
	367/8	0	12	60
	367/9	0	00	80
	367/10	0	01	43
	367/11	0	00	72
	367/12	0	01	41
	368/1	0	01	61
	368/4	0	01	93
	368/5	0	05	40
	368/6	0	03	69
	370/1	0	01	30
	370/2	0	09	66
	370/3	0	12	40
	370/4	0	01	50
	371/6	0	00	22
	372/2	0	15	66

(1)	(2)	(3)	(4)	(5)
	376/3	0	07	47
	376/30	0	19	22
	377/1	0	01	53
	377/2	0	19	81
	385/1	0	14	00
	385/2	0	13	73
	385/3	0	06	05
	388/4	0	03	45
	388/5	0	10	74
	388/6	0	01	73
	388/7	0	06	01
	389/2	0	05	81
	389/3	0	00	64
	389/4	0	04	64
	389/5	0	02	18
	389/7	0	00	59
	390/5	0	00	41
	30/3	0	53	66
	31/1	0	00	14
	35/2	0	16	25
	39/2,3	0	13	18
	51	0	07	90
	42/4,5,6,7	0	31	63
	90/2,3	0	10	97
	43	0	00	30
	92/2,4,5,7,8	0	37	50
	93	0	13	30
	94/1,2	0	18	56
	97/2	0	33	06
	113/1	0	00	72
	114	0	01	80
	115	0	16	00
	121	0	20	45
	122/1,2	0	22	30
	123	0	12	62
	124/1,2	0	16	09
	124/3	0	00	54
	124/4	0	13	75
	128/4	0	00	38

(1)	(2)	(3)	(4)	(5)
	129/3,5,6,7	0	35	70
	134/1	0	00	36
<b>2) PUDUSSERY (E)</b>				
<b>(BLOCK NO.33)</b>				
	142/2	0	23	04
	142/1	0	04	00
	122/1	0	11	88
	122/3	0	10	33
	123/1	0	03	71
	125/17	0	03	82
	125/16	0	00	28
	125/15	0	02	30
	125/20	0	04	80
	125/21	0	15	43
	117	0	23	35
	113/3	0	29	52
	113/2	0	09	39
	113/4	0	24	24
	109	0	00	05
	110/2	0	01	79
	110/1	0	14	40
	95/1	0	27	12
	95/2	0	03	96
	94	0	01	98
	190/6	0	19	08
	189/1	0	01	80
	189/2	0	05	76
	189/4	0	13	68
	186/4	0	14	40
	184/3	0	07	20
	184/9	0	06	39
	178/1	0	11	52
	177/4	0	13	14
	177/5	0	04	43
	182/1	0	07	48
	182/3	0	13	09
	182/5	0	00	26
	183/8	0	03	23
	183/7	0	00	18

(1)	(2)	(3)	(4)	(5)
	141/17	0	10	44
	141/18	0	10	44
	141/1	0	26	33
	141/3	0	06	48
	141/11	0	01	45
	141/12	0	01	44
	141/13	0	00	17
	141/8	0	00	57
	158/7	0	08	10
	158/12	0	05	76
	158/3	0	01	08
	159/2	0	26	40
	159/6	0	00	30
	159/8	0	00	69
	159/7	0	03	65
	157/56	0	02	16
	157/57	0	01	88
	157/55	0	05	04
	157/4	0	05	25
	157/31	0	06	24
	157/32	0	02	68
	157/5	0	05	40
	157/6	0	02	52
	157/52	0	01	32

**TALUK : ALATHUR****3) ERIMAYUR  
(BLOCK NO.21)**

56/1	0	03	05
56/6	0	02	06
56/8	0	00	71
76/16	0	01	10
76/17	0	04	99
76/18	0	03	56
76/19	0	22	70
76/20	0	01	27
77/1	0	01	97
80/1	0	05	31



(1)	(2)	(3)	(4)	(5)
	80/2	0	05	23
	80/9	0	01	08
	80/10	0	01	45
	80/11	0	08	86
	80/13	0	04	93
	81/3	0	06	14
	81/4	0	09	21
	82/10	0	02	97
	82/16	0	02	77
	82/17	0	03	16
	82/18	0	08	55
	83/14	0	00	29
	83/15	0	00	72
	83/19	0	13	26
	116/1	0	24	17
	116/4	0	00	89
	116/5	0	01	18
	118/1	0	40	90
	124/6	0	06	41
	124/7	0	05	40
	126/2	0	49	93
	216/2	0	05	66
	216/4	0	05	32
	216/5	0	04	18
	216/6	0	05	53
	216/7	0	03	75
	216/12	0	04	40
	219/8	0	13	49
	219/9	0	00	56
	219/10	0	15	39
	220/1	0	03	91
	222/1	0	08	72
4) ALATHUR (BLOCK NO.28)	80/2	0	06	75
	80/3	0	12	65
	80/8	0	05	72
	80/9	0	06	71
	81/4	0	11	36

(1)	(2)	(3)	(4)	(5)
	92/2	0	00	80
	92/3	0	13	12
	93/3	0	00	39
	93/4	0	07	46
	93/6	0	11	65
	93/7	0	00	08
	95/3	0	03	63
	95/4	0	08	27
	95/5	0	04	69
	97/1	0	01	19
	97/2	0	18	72
	97/3	0	06	67
	97/6	0	10	21
	98/1	0	04	72
	98/2	0	06	37
	105/1	0	00	96
	150/5	0	00	71
	150/7	0	08	36
	150/8	0	06	39
	150/9	0	05	51
	151/4	0	08	29
	151/6	0	05	32
	153/1	0	18	21
	153/2	0	08	14
5) KOZHALLMANNAM-1 (BLOCK NO.16)	182/7	0	06	86
	183/1	0	01	04
	183/2	0	09	64
	183/3	0	05	77
	183/5	0	01	83
	183/6	0	00	36
	188/2	0	09	06
	188/3	0	10	70
	188/4	0	03	20
	191/4	0	09	08
	191/5	0	06	80
	191/6	0	00	22
	191/7	0	06	21
	191/8	0	00	29
	403	0	09	95

(1)	(2)	(3)	(4)	(5)
	408/4	0	16	96
	409/2	0	00	70
	409/3	0	02	51
	409/4	0	01	11
	409/5	0	06	01
	409/6	0	25	93

[F. No. R-31015/12/98-OR-II]  
HARISH KUMAR, Under Secy.

नई दिल्ली, 3 नवम्बर, 1999

शुद्धिपत्र

का.आ. 3177.— भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii) के नीचे दी गई सारणी के स्तंभ (3) में विनिर्दिष्ट पृष्ठों पर भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचनाओं के, जो उक्त सारणी के स्तंभ (2) में विनिर्दिष्ट हैं, प्रकाशित हिंदी पाठ को उक्त सारणी के स्तंभ (4) की तत्स्थानी प्रविष्टि में विनिर्दिष्ट के अनुसार पढ़ा जाये :

## सारणी

1	2	3	4
क्रम सं.	अधिसूचना सं. और तारीख	प्रकाशित पृष्ठ क्रमांक भारत सरकार के राजपत्र की तारीख	संशोधन
1-	का. आ. सं. 1208 तारीख 26.4.1999	प्रकाशित पृष्ठ सं. 2803 भारत सरकार के राजपत्र सं. 18 तारीख 1.5.1999	“भारत पेट्रोलियम कारपोरेशन लिमिटेड संस्थापन से तमिलनाडु राज्य के कोचीन से करूर तक परिवहन के लिए” शब्दों के स्थान पर “केरल राज्य में भारत पेट्रोलियम कारपोरेशन लिमिटेड, इरमापनम के इरमापनम संस्थापन से तमिलनाडु राज्य के कोचीन से करूर तक परिवहन के लिए पेट्रोनेट सी. सी. के लिमिटेड द्वारा ” शब्द रखे जाएंगे ।
2	का. आ. सं. 1612 तारीख 2.6.99	प्रकाशित पृष्ठ सं. 3603 भारत सरकार के राजपत्र सं. 18 तारीख 12.6.1999	“ भारत पेट्रोलियम कारपोरेशन लिमिटेड संस्थापन से तमिलनाडु राज्य के कोचीन से करूर तक परिवहन के लिए” शब्दों के स्थान पर “ केरल राज्य में भारत पेट्रोलियम कारपोरेशन लिमिटेड, इरमापनम के इरमापनम संस्थापन से तमिलनाडु राज्य के कोचीन से करूर तक परिवहन के लिए पेट्रोनेट सी. सी. के लिमिटेड द्वारा ” शब्द रखे जाएंगे ।
3	का. आ. सं. 1825 तारीख 16.6.99	प्रकाशित पृष्ठ सं. 3917 भारत सरकार के राजपत्र सं. 18 तारीख 26.6.1999	“ भारत पेट्रोलियम कारपोरेशन लिमिटेड संस्थापन से तमिलनाडु राज्य के कोचीन से करूर तक परिवहन के लिए” शब्दों के स्थान पर “ केरल राज्य में भारत पेट्रोलियम कारपोरेशन लिमिटेड, इरमापनम के इरमापनम संस्थापन से तमिलनाडु राज्य के कोचीन से करूर तक परिवहन के लिए पेट्रोनेट सी. सी. के लिमिटेड द्वारा ” शब्द रखे जाएंगे ।

New Delhi, the 3rd November, 1999

## Corrigendum

S. O. 3177.— In the English version of the notifications of the Government of India in the Ministry of Petroleum and Natural Gas specified in column (2) of the Table below, as published in the Gazette of India, Part-II, Section 3, Sub-section (ii) at pages specified in column (3) of the said Table may be read as specified in the corresponding entry in column (4) of the said Table.

**“ Table ”**

Sr. No.	Notification Number with date	Published at Page Number and the date of Gazette of India	Error/Mistakes to be corrected
(1)	(2)	(3)	(4)
1.	S.O. 1208 dated, 26.04.1999	Published at Page number 2814 of Government of India Gazette Issue No. 18 dated 01.05.1999.	in paragraph 1, for “ from Refinery of Bharat Petroleum Corporation Limited, Cochin to Karur in the State of Tamil Nadu”,  <u>read</u> “ from Irimpanam Installation of Bharat Petroleum Corporation Limited, Irimpanam, Cochin, in the State of Kerala to Karur in the State of Tamil Nadu”.

2.	S.O. 1612 dated, 02.06.1999	Published at Page number 3617 of Government of India Gazette Issue No. 18 dated 12.06.1999.	in paragraph 1, <u>for</u> “ from Refinery of Bharat Petroleum Corporation Limited, Cochin to Karur in the State of Tamil Nadu”.  <u>read</u> “ from Irimpanam Installation of Bharat Petroleum Corporation Limited, Irimpanam, Cochin, in the State of Kerala to Karur in the State of Tamil Nadu”.
3.	S.O. 1825 dated, 16.06.1999	Published at Page number 3937 of Government of India Gazette Issue No. 18 dated 26.06.1999.	in paragraph 1, <u>for</u> “ from Refinery of Bharat Petroleum Corporation Limited, Cochin to Karur in the State of Tamil Nadu”,  <u>read</u> “ from Irimpanam Installation of Bharat Petroleum Corporation Limited, Irimpanam, Cochin, in the State of Kerala to Karur in the State of Tamil Nadu”.

[F. No. R-31015/15/98-OR-II]  
HARISH KUMAR, Under Secy.

नई दिल्ली, 4 नवम्बर, 1999

का.आ. 3178.— केन्द्रीय सरकार ने, पेट्रोलियम और खनिज पाईप-लाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. अ 2156 तारीख 27.7.99 द्वारा मोटर स्पिड, उच्च कोटि किरोसिन तेल और उच्च वर्ग डीजल के परिवहन के लिए केरल राज्य में भारत पेट्रोलियम कारपोरेशन लिमिटेड, इरमापनम्, कोचीन संस्थापन से तमिलनाडु राज्य में करूर तक पेट्रोनेट सी.सी.के. लिमिटेड द्वारा पाईपलाइन बिछाने के प्रयोजनार्थ उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकारों के अर्जन के अपने आशय की घोषणा की थी ;

और उक्त राजपत्रित अधिसूचना की प्रति जनता को तारीख 9.8.99 से उपलब्ध करा दी गई थी ;

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को रिपोर्ट दे दी है ;

और केन्द्रीय सरकार की उक्त रिपोर्ट पर विचार करने के पश्चात यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाना चाहिए ;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार अर्जित करने की घोषणा करती है ;

यह और कि केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार, केन्द्रीय सरकार में निहित होने की वजाह सभी विल्लगनों से मुक्त होकर पेट्रोनेट सी.सी.के. लिमिटेड में निहित होगा ;

## अनुसूची

तालुका - कोयम्बटूर (दक्षिण)

जिला - कोयम्बटूर

राज्य - तमिऴनाडु

गांव का नाम	सर्वसंपत्ति संख्या	हेक्टेयर	आगे	वर्ग मीटर
1	2	3	4	5
1. पिच्चानुर	575/2	0	00	10
	291/1B	0	00	30
	302/2A	0	14	16
	302/2B	0	13	62
	339/2	0	08	94
	340/1B	0	07	33
	345/4	0	11	30
	303/1D	0	00	72
	577	0	01	05
	575/1	0	00	49
	575/3	0	01	27
	574/1	0	01	95
	553/1B	0	17	03
	544/2A	0	00	91
	543/1B	0	01	75
	536/1	0	06	63
	538/2	0	01	90
	255/2	0	02	41
	255/1	0	01	44
	271/2	0	01	16
	291/1A	0	03	74
	291/2C	0	02	17
	291/2B	0	01	60
	293/4B	0	10	64
	295/1A	0	00	97
	295/1B	0	03	82
	295/2C	0	00	74
	295/2D	0	01	40
	295/2E	0	00	08
	311/1	0	01	62
	309/2	0	00	16



	1	2	3	4	5
पिधान (जि३१)					
309/5		0	00	17	
298/2C		0	01	22	
347		0	16	92	
539/3		0	00	15	
299/3A		0	02	81	
335/2		0	06	78	
335/3		0	01	03	
337		0	02	71	
१. यिरुमालायामपालायाम					
269/1		0	03	42	
267/1A		0	00	11	
280/2A7		0	00	09	
280/2A8		0	01	38	
280/2C		0	02	14	
280/2D2		0	03	77	
280/2D1		0	01	82	
280/2B2		0	04	48	
280/2B3		0	08	63	
280/2A2		0	04	13	
296/2		0	05	97	
294/2A		0	01	84	
294/2B		0	30	47	
77/2B		0	00	52	
80/1B		0	00	27	
80/4		0	02	04	
109/6		0	00	88	
212/2		0	01	78	
214/1		0	12	18	
215/2A		0	12	93	
215/2B		0	00	91	
207/3		0	05	22	
267/3A		0	00	24	
267/1B		0	11	16	
275/2B		0	01	57	
275/2C		0	00	87	
273		0	01	64	
291		0	01	16	
285/2		0	0	84	
77/2A		0	02	98	
81/3D		0	04	12	
81/3C2		0	01	83	
102		0	02	93	
109/3		0	09	91	
112/1A		0	00	49	
7/2B1C		0	06	19	
5/2		0	02	34	

1	2	3	4	5
3. मधुकुण्ड	738	0	11	66
	716/3B1A	0	05	13
	716/3B1B	0	01	89
	* 716/3B2	0	16	92
	715/1A	0	00	56
	715/1B	0	16	29
	715/2	0	07	00
	710/3	0	01	89
	669/1	0	00	90
	669/2	0	23	76
	749	0	01	55
	751	0	11	12
	710/2	0	02	26
	703/1	0	01	37

## अनुसूची

तालुका: पालाडेम

जिला - सोपानपुर

राज्य : तमिलनाडु

गाँव का नाम	सर्वेक्षण संख्या	हक्कदार	आरे	घर्ती मी०
1	2	3	4	5
1. इरगुर	593/4	0	17	16
	593/5	0	01	04
	593/6	0	12	50
	602/2	0	00	02
	603/1	0	41	16
	603/7	0	04	56
	619/6B	0	15	35
	619/6C	0	00	81
	711/2	0	06	45
	695A/2A	0	31	79
	695B/1	0	13	21
	693/4A2	0	02	96
	583/B2	0	06	73
	586/1B2	0	03	92
	586/2	0	24	57
	586/3	0	18	98
	586/4	0	16	34
	715/2A	0	06	05
	580/1C1	0	09	42
	580/1C2	0	10	61
	580/1C3	0	00	72
	580/2B1	0	09	97
	580/2B2	0	06	52
	580/2B3	0	09	55

1	2	3	4	5
इरगुर(जारी)	580/2B4	0	06	97
	580/2B5	0	03	63
	582/1	0	05	13
	582/2	0	41	97
	581/1C2	0	03	91
	585/1A	0	07	31
	585/1B	0	03	50
	589/1A	0	02	67
	589/1B	0	06	16
	589/1C	0	13	14
	589/2	0	10	40
	593/3	0	05	59
	603/6	0	16	31
	619/3B	0	00	41
	619/4B	0	00	28
	699/1B	0	01	36
	698	0	02	03
	692/1A2B3	0	00	73
	693/4A1	0	03	88
	618/2B	0	00	57
	623/3C	0	00	31
	679/2B	0	00	27
	680/2D	0	02	52
	579/1	0	12	82
९. नीलाम्बुर	339/1D	0	00	74
	339/3	0	00	64
	339/1E1	0	06	60
	338/1	0	00	42
	338/2A	0	06	52
	337/1B	0	11	93
	336/3A	0	00	86
	336/1A	0	01	72
	336/1B	0	00	47

1	2	3	4	5
3. सुसुर	38/1	0	01	29
	209/1	0	04	14
	209/3	0	03	78
	225/1	0	03	47
	12/2C	0	07	36
	35/2	0	00	72
	14/1	0	06	21
	241/2	0	01	40
	208	0	01	03
	38/2D	0	00	28
	38/2E	0	00	51
	35/1A	0	01	90
	32/2B	0	00	36
	30	0	00	41
	28/2B	0	00	55
	17/2	0	01	28
	14/5	0	00	80
	13/3A	0	00	92
	193	0	00	62
	159/1	0	00	67
	157	0	00	83
	152/1	0	03	43
	151/1	0	06	02
	128/2	0	03	99
	192/2	0	00	29
	242	0	00	05
	13/3C	0	00	95
	11/1C	0	01	23
	8/2B	0	00	26
	7/3B	0	08	47
	7/4	0	00	43
4. फोडन्गीपालायाम	197/1A	0	00	07
	172/1B	0	01	71
	172/1D	0	02	21
	152/2	0	14	31
	140/2	0	10	60
	88/2E	0	01	08
	300/4B	0	00	24
	294/2	0	00	24
	294/7	0	00	49
	126/3	0	07	52
	125/2	0	01	77
	193	0	02	32
	196/3	0	00	72
	197/2	0	03	51
	175/B1E	0	00	47
	175/B1D	0	00	24
	175/B1G	0	00	40
	172/1C	0	04	43
	172/1G	0	11	02

1	2	3	4	5
ओडिशा की फाला याम (जारी)	171 113/4B 113/4C 113/5B 113/5C 104/2A 88/2H 43/2A 19 14/1 14/2 294/1 198/1	0 0 0 0 0 0 0 0 0 0 0 0 0	05 01 00 07 05 07 04 02 03 01 00 04 00	35 51 72 06 78 82 35 58 43 01 17 98 95
5. कादमबाड़ी	135/5 135/4 135/10 136/3A 174/1A 174/2D 194/1A 194/1B 194/2 195/1 179/1 178 174/1C 174/2A 193/4A 199/1 199/2 199/3 311/4 278/1 278/2 277/2B 275/7 275/9 275/22	0 0	01 08 02 19 00 00 07 08 00 01 10 04 02 03 00 05 03 00 23 01 00 09 02 03 00	04 96 52 04 02 43 02 08 71 60 14 28 13 05 57 03 77 77 25 16 79 80 90 61 14
6. कन्यायामपात्रायाम	1/8	0	01	05

1	2	3	4	5
7. सुकमपायायाम	390/6	0	01	20
	363/5	0	00	17
	364/2	0	00	78
	320/3	0	11	74
	320/4	0	07	14
	311/1	0	00	03
	311/2	0	40	20
	311/3	0	32	36
	309/1B	0	02	74
	200/1B	0	20	06
	382/3E	0	12	10
	339/3	0	01	45
	336/3	0	02	27
	332/2A	0	01	16
	329/3	0	02	07
	322/3	0	10	39
	393/5	0	00	28
	393/6	0	00	10
	407/1	0	01	91
	390/2	0	01	89
	362/1	0	00	95
	197/3D	0	00	92
	363/2	0	00	36
	363/4B	0	00	72
	365/1A	0	01	11
	350/2	0	00	12
	330	0	00	96
	308/1	0	03	93
	382/3A	0	01	35
8. पालाङ्गम	164/1A	0	00	65
	154/5	0	00	06
	154/7	0	00	48
	154/9	0	01	90
	167/1A1	0	00	23
	114	0	00	82
	125/2A	0	00	68
	135	0	01	77
	164/1L	0	00	65
	164/1G	0	00	26
	154/6	0	04	18
	166/1A	0	00	28
	167/2	0	00	88
	153/2	0	00	40
	152/2D	0	02	23
	152/2B	0	00	39

	1	2	3	4	5
१. नारानापुरम्	377/1B	0	00	18	
	376/3	0	00	18	
	435/1B	0	01	04	
	434/1	0	01	14	
	434/7	0	03	92	
	428/4	0	00	51	
	416/3	0	12	32	
	377/2	0	03	52	
	397	0	04	96	
	376/2	0	01	10	
	422/1A	0	01	37	
१०. गानापायीपालायाम	586/3C1	0	00	77	
	593/1A	0	09	57	
	593/1B	0	01	76	
	344/1A	0	11	40	
	502/2B	0	09	13	
	587/2A1	0	00	64	
	586/1	0	00	25	
	598/1	0	00	54	
	600	0	05	52	
	618/2	0	00	63	
	265/3	0	01	48	
	265/5	0	02	56	
	344/4	0	02	28	
	342/2C	0	01	03	
	332/1A	0	00	21	
	326/2	0	01	18	
	325	0	00	33	
	377/2	0	00	57	
	451	0	00	24	
	452/1	0	03	88	
	456/1	0	03	99	
	463	0	01	41	
	464	0	00	43	
	493	0	01	78	
	496/6	0	00	67	
	497	0	15	48	
	502/2A1	0	02	35	
	502/2A2	0	00	11	

## बनसुरी

तालुका: तिरुपुर

जिला - कोयम्बटूर

राज्य - तमिलनाडु

गोब घा नाम	सर्वेक्षण संख्या	हेक्टेयर	आरे	चर्चा मी०
1	2	3	4	5
1. टोंगाटीपालायाम	446/2A1	0	03	53
	448/2A	0	03	20
	419/2	0	00	11
	420/2A1	0	00	19
	446/2A7	0	00	16
	446/2A6	0	01	70
	446/1A1	0	07	61
	446/1A2	0	00	48
	461/2A	0	00	24
	465/2	0	01	04
	464/1A	0	00	15
	461/1B	0	03	31
2. मन्निनरीपालायाम (उत्तरी)	105/1	0	01	22
	108/3	0	03	03
	95/4	0	00	93
	93/3	0	02	17
	89/1A	0	00	72
	314/1A1	0	06	44
	315/1	0	19	48
	316	0	58	93
	323	0	28	01
3. उगयानूर	190/3	0	21	87
	271/1C	0	02	37
	271/2F	0	00	26
	271/2G	0	00	30
	271/2H	0	00	28
	271/2-I	0	00	30
	271/2M	0	00	12
	271/2N	0	00	10
	581	0	04	60
	187/2	0	14	73
	186/1A	0	02	87
	184/1	0	01	91
	181/2A	0	01	57
	269/2B	0	01	73
	271/1A	0	01	18
	267/1A	0	01	33
	366	0	02	47
	364	0	05	22
	584	0	03	46
	580/1	0	07	66
	578/2	0	02	19



	1	2	3	4	5
4. आलायुमाकाई					
88/1A			0	01	89
65/4C			0	00	75
65/4B			0	00	12
65/1B			0	00	48
59/3D			0	00	81
59/3B			0	00	14
59/1B			0	01	21
59/1A			0	00	44
81/2E			0	01	70
81/2D			0	01	57
81/2B			0	01	03
81/2A			0	01	71
88/1B3			0	00	38
122/2			0	21	38
122/1B			0	02	78
94/1			0	07	65
94/2A			0	04	09
94/2B			0	02	21
94/3A			0	01	42
94/3B			0	00	96
94/3C			0	00	99
95/2			0	28	66
96/1A			0	09	95
96/1B			0	06	87
96/2B			0	04	41
96/2E			0	03	35
96/2F			0	07	63
52/1			0	15	31
52/2			0	03	44
52/3			0	02	00
52/4			0	02	00
51/1			0	18	00
51/2			0	00	28
51/5			0	02	28
113			0	09	31

	1	2	3	4	5
5. कान्डयानफोबिल					
584/19		0	00		18
592/1A		0	00		50
591/8		0	02		72
603/1C		0	00		49
695/4		0	03		40
695/6		0	00		60
695/7		0	01		07
695/8		0	01		66
643/4A		0	05		03
644/4		0	00		20
582/3B		0	01		20
567/1A		0	19		56
567/2A		0	19		30
1096/1C		0	01		27
1096/1A		0	00		09
1094/3		0	00		12
1092/2B		0	00		67
1092/2A		0	01		26
1090/1		0	02		70
695/13		0	01		58
699/1A		0	01		19
697/1		0	06		13
696/3B4		0	03		87
696/1B2		0	00		95
637/1A		0	05		98
641/1E		0	00		18
641/2		0	00		53
643/4C		0	00		29
643/1A		0	00		79
644/1		0	00		37
602/1		0	01		14
591/2		0	08		68
584/18		0	00		44
584/16		0	00		40
583/3B		0	00		28
583/2A		0	00		68
582/3A		0	03		13
579/3A1		0	11		74
565		0	02		28

[सं. आर.-31015/15/98-ओ.आर.-II]

हरीश कुमार, अवर सचिव

New Delhi, the 4th November, 1999

**S. O. 3178.— WHEREAS** by the Notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No 2156 dated 27.7.99 issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act 1962, (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the said land specified in the schedule appended to that notification for the purpose of laying pipeline for the transport of Motor Sprit, Superior Kerosene Oil and High Speed Diesel from Irimpanam Installation of Bharat Petroleum Corporation Limited, Irimpanam, Cochin in the State of Kerala to Karur in the State of Tamilnadu, by the Petronet CCK Limited;

And, Whereas, copy of the said Gazette notification was made available to the public from 09.08.1999;

And, Whereas, the competent authority in pursuance of sub-section(1) of section 6 of the said Act has made his report to the Central Government;

And, Whereas, the Central Government after considering the said report, is satisfied that the right of user in the land specified in the schedule appended to this notification should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declare that the right of user in the lands specified in the schedule appended to this notification are hereby acquired;

And further in exercise of the powers conferred by sub-section(4) of the section 6 of the said Act, the Central Government hereby directs that the right of the user in the said lands shall instead of vesting in the Central Government, vest, free from all encumbrances, in the Petronet CCK Limited.

## SCHEDULE

Taluk:COIMBATORE(SOUTH) District:COIMBATORE State:TAMILNADU

Name of the Village	Survey No	Area		
		Hectares	Ares	Sq.mts
1	2	3	4	5
1.PICHANUR	575/2	0	00	10
	291/1B	0	00	30
	302/2A	0	14	16
	302/2B	0	13	62
	339/2	0	08	94
	340/1B	0	07	33
	345/4	0	11	30
	303/1D	0	00	72
	577	0	01	05
	575/1	0	00	49
	575/3	0	01	27
	574/1	0	01	95
	553/1B	0	17	03
	544/2A	0	00	91
	543/1B	0	01	75
	536/1	0	06	63
	538/2	0	01	90
	255/2	0	02	41
	255/1	0	01	44
	271/2	0	01	16
	291/1A	0	03	74
	291/2C	0	02	17
	291/2B	0	01	60
	293/4B	0	10	64
	295/1A	0	00	97
	295/1B	0	03	82
	295/2C	0	00	74
	295/2D	0	01	40
	295/2E	0	00	08
	311/1	0	01	62
	309/2	0	00	16
	309/5	0	00	17
	298/2C	0	01	22
	347	0	16	92
	539/3	0	00	15
	299/3A	0	02	81
	335/2	0	06	78
	335/3	0	01	03
	337	0	02	71

	1	2	3	4	5
<b>2. THIRUMALAYAM -</b>					
<b>PALAYAM</b>					
269/1		0	03		42
267/1A		0	00		11
280/2A7		0	00		09
280/2A8		0	01		38
280/2C		0	02		14
280/2D2		0	03		77
280/2D1		0	01		82
280/2B2		0	04		48
280/2B3		0	08		63
280/2A2		0	04		13
296/2		0	05		97
294/2A		0	01		84
294/2B		0	30		47
77/2B		0	00		52
80/1B		0	00		27
80/4		0	02		04
109/6		0	00		88
212/2		0	01		78
214/1		0	12		18
215/2A		0	12		93
215/2B		0	00		91
207/3		0	05		22
267/3A		0	00		24
267/1B		0	11		16
275/2B		0	01		57
275/2C		0	00		87
273		0	01		64
291		0	01		16
285/2		0	0		84
77/2A		0	02		98
81/3D		0	04		12
81/3C2		0	01		83
102		0	02		93
109/3		0	09		91
112/1A		0	00		49
7/2B1C		0	06		19
5/2		0	02		34
<b>3. MADUKARAI</b>					
738		0	11		66
716/3B1A		0	05		13
716/3B1B		0	01		89
716/3B2		0	16		92
715/1A		0	00		56
715/1B		0	16		29
715/2		0	07		00
710/3		0	01		89
669/1		0	00		90
669/2		0	23		76

1	2	3	4	5
MADUKARAI	749	0	01	55
(CONTD.)	751	0	11	12
	710/2	0	02	26
	703/1	0	01	37

## SCHEDULE

Taluk: PALADAM District: COIMBATORE State: TAMILNADU

Name of the Village	Survey No	AREA		
		Hectares	Ares	Sq.mts.
1	2	3	4	5
1. IRUGUR	593/4	0	17	16
	593/5	0	01	04
	593/6	0	12	50
	602/2	0	00	02
	603/1	0	41	16
	603/7	0	04	56
	619/6B	0	15	35
	619/6C	0	00	81
	711/2	0	06	45
	695A/2A	0	31	79
	695B/1	0	13	21
	693/4A2	0	02	96
	583/B2	0	06	73
	586/1B2	0	03	92
	586/2	0	24	57
	586/3	0	18	98
	586/4	0	16	34
	715/2A	0	06	05
	580/1C1	0	09	42
	580/1C2	0	10	61
	580/1C3	0	00	72
	580/2B1	0	09	97
	580/2B2	0	06	52
	580/2B3	0	09	55
	580/2B4	0	06	97
	580/2B5	0	03	63
	582/1	0	05	13
	582/2	0	41	97
	581/1C2	0	03	91
	585/1A	0	07	31
	585/1B	0	03	50

	1	2	3	4	5
<b>1. IRUGUR</b> (Contd..)					
589/1A		0	02		67
589/1B		0	06		16
589/1C		0	13		14
589/2		0	10		40
593/3		0	05		59
603/6		0	16		31
619/3B		0	00		41
619/4B		0	00		28
699/1B		0	01		36
698		0	02		03
692/1A2B3		0	00		73
693/4A1		0	03		88
618/2B		0	00		57
623/3C		0	00		31
679/2B		0	00		27
680/2D		0	02		52
579/1		0	12		82
<b>2. NEELAMBUR</b>					
339/1D		0	00		74
339/3		0	00		64
339/1E1		0	06		60
338/1		0	00		42
338/2A		0	06		52
337/1B		0	11		93
336/3A		0	00		86
336/1A		0	01		72
336/1B		0	00		47

	1	2	3	4	5
3.SULUR					
38/1		0	01		29
209/1		0	04		14
209/3		0	03		78
225/1		0	03		47
12/2C		0	07		36
35/2		0	00		72
14/1		0	06		21
241/2		0	01		40
208		0	01		03
38/2D		0	00		28
38/2E		0	00		51
35/1A		0	01		90
32/2B		0	00		36
30		0	00		41
28/2B		0	00		55
17/2		0	01		28
14/5		0	00		80
13/3A		0	00		92
193		0	00		62
159/1		0	00		67
157		0	00		83
152/1		0	03		43
151/1		0	06		02
128/2		0	03		99
192/2		0	00		29
242		0	00		05
13/3C		0	00		95
11/1C		0	01		23
8/2B		0	00		26
7/3B		0	08		47
7/4		0	00		43



1	2	3	4	5
4.KODANGI - PALAYAM	197/1A	0	00	07
	172/1B	0	01	71
	172/1D	0	02	21
	152/2	0	14	31
	140/2	0	10	60
	88/2E	0	01	08
	300/4B	0	00	24
	294/2	0	00	24
	294/7	0	00	49
	126/3	0	07	52
	125/2	0	01	77
	193	0	02	32
	196/3	0	00	72
	197/2	0	03	51
	175/B1E	0	00	47
	175/B1D	0	00	24
	175/B1G	0	00	40
	172/1C	0	04	43
	172/1G	0	11	02
	171	0	05	35
	113/4B	0	01	51
	113/4C	0	00	72
	113/5B	0	07	06
	113/5C	0	05	78
	104/2A	0	07	82
	88/2H	0	04	35
	43/2A	0	02	58
	19	0	03	43
	14/1	0	01	01
	14/2	0	00	17
	294/1	0	04	98
	198/1	0	00	95

1	2	3	4	5
5.KADAMBADI	135/5	0	01	04
	135/4	0	08	96
	135/10	0	02	52
	136/3A	0	19	04
	174/1A	0	00	02
	174/2D	0	00	43
	194/1A	0	07	02
	194/1B	0	08	08
	194/2	0	00	71
	195/1	0	01	60
	179/1	0	10	14
	178	0	04	28
	174/1C	0	02	13
	174/2A	0	03	05
	193/4A	0	00	57
	199/1	0	05	03
	199/2	0	03	77
	199/3	0	00	77
	311/4	0	23	25
	278/1	0	01	16
	278/2	0	00	79
	277/2B	0	09	80
	275/7	0	02	90
	275/9	0	03	61
	275/22	0	00	14
6.KANGYAM - PALAYAM	1/8	0	01	05

1	2	3	4	5
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**7.SUKKAAMPALAYAM**

390/6	0	01	20
363/5	0	"00	17
364/2	0	00	78
320/3	0	11	74
320/4	0	07	14
311/1	0	00	03
311/2	0	40	20
311/3	0	32	36
309/1B	0	02	74
200/1B	0	20	06
382/3E	0	12	10
339/3	0	01	45
336/3	0	02	27
332/2A	0	01	16
329/3	0	02	07
322/3	0	10	39
393/5	0	00	28
393/6	0	00	10
407/1	0	01	91
390/2	0	01	89
362/1	0	00	95
197/3D	0	00	92
363/2	0	00	36
363/4B	0	00	72
365/1A	0	01	11
350/2	0	00	12
330	0	00	96
308/1	0	03	93
382/3A	0	01	35

1	2	3	4	5
<b>8.PALLADAM</b>				
	164/1A	0	00	65
	154/5	0	00	06
	154/7	0	00	48
	154/9	0	01	90
	167/1A1	0	00	23
	114	0	00	82
	125/2A	0	00	68
	135	0	01	77
	164/1L	0	00	65
	164/1G	0	00	26
	154/6	0	04	18
	166/1A	0	00	28
	167/2	0	00	88
	153/2	0	00	40
	152/2D	0	02	23
	152/2B	0	00	39
<b>9.NARANAPURAM</b>				
	377/1B	0	00	18
	376/3	0	00	18
	435/1B	0	01	04
	434/1	0	01	14
	434/7	0	03	92
	428/4	0	00	51
	416/3	0	12	32
	377/2	0	03	52
	397	0	04	96
	376/2	0	01	10
	422/1A	0	01	37

1	2	3	4	5
10.GANAPATHI- PALAYAM	586/3C1	0	00	77
	593/1A	0	09	57
	593/1B	0	01	76
	344/1A	0	11	40
	502/2B	0	09	13
	587/2A1	0	00	64
	586/1	0	00	25
	598/1	0	00	54
	600	0	05	52
	618/2	0	00	63
	265/3	0	01	48
	265/5	0	02	56
	344/4	0	02	28
	342/2C	0	01	03
	332/1A	0	00	21
	326/2	0	01	18
	325	0	00	33
	377/2	0	00	57
	451	0	00	24
	452/1	0	03	88
	456/1	0	03	99
	463	0	01	41
	464	0	00	43
	493	0	01	78
	496/6	0	00	67
	497	0	15	48
	502/2A1	0	02	35
	502/2A2	0	00	11

## SCHEDULE

Taluk: TIRUPPUR

District: COIMBATORE

State: TAMIL NADU

Name of the village	Survey No	Area		
		Hectares	Ares	sq.Mts
1	2	3	4	5
1.THONGATTI- PALAYAM	446/2A1	0	03	53
	448/2A	0	03	20
	419/2	0	00	11
	420/2A1	0	00	19
	446/2A7	0	00	16
	446/2A6	0	01	70
	446/1A1	0	07	61
	446/1A2	0	00	48
	461/2A	0	00	24
	465/2	0	01	04
	464/1A	0	00	15
	461/1B	0	03	31
2.NORTH AVANASHI- PALAYAM	105/1	0	01	22
	108/3	0	03	03
	95/4	0	00	93
	93/3	0	02	17
	89/1A	0	00	72
	314/1A1	0	06	44
	315/1	0	19	48
	316	0	58	93
	323	0	28	01

	1	2	3	4	5
<b>3.UGAYANUR</b>					
190/3		0	21		87
271/1C		0	02		37
271/2F		0	00		26
271/2G		0	00		30
271/2H		0	00		28
271/2-I		0	00		30
271/2M		0	00		12
271/2N		0	00		10
581		0	04		60
187/2		0	14		73
186/1A		0	02		87
184/1		0	01		91
181/2A		0	01		57
269/2B		0	01		73
271/1A		0	01		18
267/1A		0	01		33
366		0	02		47
364		0	05		22
584		0	03		46
580/1		0	07		66
578/2		0	02		19
<b>4.ALAGUMALAI</b>					
88/1A		0	01		89
65/4C		0	00		75
65/4B		0	00		12
65/1B		0	00		48
59/3D		0	00		81
59/3B		0	00		14
59/1B		0	01		21
59/1A		0	00		44
81/2E		0	01		70
81/2D		0	01		57
81/2B		0	01		03
81/2A		0	01		71
88/1B3		0	00		38
122/2		0	21		38
122/1B		0	02		78

1	2	3	4	5
<b>4.ALAGUMALAI</b>				
(Contd...)	94/1	0	07	65
	94/2A	0	04	09
	94/2B	0	02	21
	94/3A	0	01	42
	94/3B	0	00	96
	94/3C	0	00	99
	95/2	0	28	66
	96/1A	0	09	95
	96/1B	0	06	87
	96/2B	0	04	41
	96/2E	0	03	35
	96/2F	0	07	63
	52/1	0	15	31
	52/2	0	03	44
	52/3	0	02	00
	52/4	0	02	00
	51/1	0	18	00
	51/2	0	00	28
	51/5	0	02	28
	113	0	09	31
<b>5.KANDIANKOIL</b>				
	584/19	0	00	18
	592/1A	0	00	50
	591/8	0	02	72
	603/1C	0	00	49
	695/4	0	03	40
	695/6	0	00	60
	695/7	0	01	07
	695/8	0	01	66
	643/4A	0	05	03
	644/4	0	00	20
	582/3B	0	01	20
	567/1A	0	19	56
	567/2A	0	19	30
	1096/1C	0	01	27
	1096/1A	0	00	09
	1094/3	0	00	12
	1092/2B	0	00	67
	1092/2A	0	01	26
	1090/1	0	02	70
	695/13	0	01	58
	699/1A	0	01	19
	697/1	0	06	13
	696/3B4	0	03	87
	696/1B2	0	00	95
	637/1A	0	05	98



1	2	3	4	5
<b>5.KANDIANKOIL</b>				
<b>(Contd...)</b>				
	641/1E	0	00	18
	641/2	0	00	53
	643/4C	0	00	29
	643/1A	0	00	79
	644/1	0	00	37
	602/1	0	01	14
	591/2	0	08	68
	584/18	0	00	44
	584/16	0	00	40
	583/3B	0	00	28
	583/2A	0	00	68
	582/3A	0	03	13
	579/3A1	0	11	74
	565	0	02	28

[F No R-31015/15/98-OR-II]  
HARISH KUMAR, Under Secy.

नई दिल्ली, 5 नवम्बर, 1999

का.आ. 3179.— केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में, जिला तालुका - बडोदा के दुमाड से पेट्रोलियम उत्पादों के परिवहन के लिए, दुमाड टैंक फार्म से अलीन्द्रा तालुका सावली जिला बडोदा तक गुजरात रिफाइनरी इन्डियन ऑईल कोर्पोरेशन लिमिटेड, बडोदा द्वारा एक पाइप लाइन बिछाई जानी चाहिए।

और ऐसी पाइप लाइन बिछाए जाने के प्रयोजन के लिए, इस अधिसूचना के साथ उपावध अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है;

अतः अब केन्द्रीय सरकार पेट्रोलियम और खनिज पाइप लाइन ( भूमि में उपयोग का अधिकार का अर्जन ) अधिनियम, 1962 ( 1962 का 50 ) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उसमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति, उस तारीख से, जिसको भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर, भूमि के नीचे पाइप लाइन बिछाने के संबंध में या उनमें उपयोग के अधिकार का अर्जन करने संबंधी लिखित में आक्षेप, श्री वी. जे. राजपूत, डेप्युटी कलेक्टर व सक्षम प्राधिकारी, गुजरात रिफाइनरी इन्डियन ऑईल कोर्पोरेशन लिमिटेड, कोयली डाक घर जवाहरनगर बडोदा, गुजरात को कर सकता है।

## अनुसूची

तालुका: बडौदा

जिल्ला: बडौदा

राज्य: गुजरात

गाँव का नाम	सर्वेक्षण / खंड संख्या	क्षेत्र हेक्टर/आरे/चो.मी.
1	2	3
आसोज	183	0.02.26
	182	0.08.04
	181	0.10.43
	177	0.13.29
	175	0.15.02
	174	0.12.39
	कार्ट ट्रैक	0.01.00
	केनालडीस्टी	0.08.96
	169	0.26.00
	173	0.00.08
	कार्ट ट्रैक	0.06.04
	165	0.12.90
	कार्ट ट्रैक	0.01.00
	157	0.09.22
	158	0.01.00
	156	0.09.67
	153	0.00.51
	155	0.10.59
	147	0.12.68
	111/पिक्की	0.26.69
	कार्ट ट्रैक	0.02.98
	110	0.07.64
	108	0.02.15
	106	0.09.31
	103	0.00.20
	107	0.08.03
	102	0.09.52
	98	0.01.16
	99	0.12.92
	84	0.15.36
	83	0.00.22
	82	0.11.23
	72	0.25.50
	73	0.09.26
	75	0.00.41
	डबल्यु.बी.ओम. रोड	0.09.01
	70	0.00.61
	69	0.21.53

## अनुसूची

तालुका: सावली

जिल्ला: बडोदा

राज्य: गुजरात

गाँव का नाम	सर्वेक्षण / खंड संख्या	क्षेत्र हेक्टर/आरे/चो.मी.
1	2	3

पिलोल

200/1

0.09.37

201

0.03.24

202

0.13.46

205

0.06.75

194

0.06.64

193

0.09.04

192

0.00.01

206/1

0.00.68

181/1

0.21.88

1145

0.19.96

211

0.00.83

179

0.11.78

213

0.05.06

177

0.08.39

175

0.05.18

174

0.10.09

173

0.08.41

कार्ट ट्रैक

0.02.01

168

0.07.68

217/1

0.06.62

217/3

0.00.38

कार्ट ट्रैक

0.00.94

218/1

0.04.18

218/2

0.00.37

219

0.08.24

221

0.09.94

222

0.08.15

कार्ट ट्रैक

0.02.20

228/1

0.04.58

224

0.05.32

279

0.13.63

288/2

0.00.79

281/1

0.11.39

282

0.15.35

286

0.00.01

284/1

0.16.44

301

0.04.88

300

0.14.64

गाँव का नाम	सर्वेक्षण / खंड संख्या	क्षेत्र हेक्टर/आरे/चो.मी.
1	2	3

कार्ट ट्रैक	0.02.28
304	0.10.15
303	0.00.28
333	0.02.31
332	0.30.02
316	0.00.17
330	0.00.01

328	0.07.07
322	0.25.46
325	0.09.12
323	0.11.25

कार्ट ट्रैक	0.01.57
749	0.11.10
748	0.11.47
740	0.03.25
742	0.16.25
743	0.06.76
579	0.15.96
580	0.10.59
581	0.00.37
583	0.13.81
586	0.21.72
572	0.14.48
562	0.32.28
569	0.00.52
568	0.52.38

नहर	0.03.01
507	0.06.21

अलीन्द्रा

251	0.14.29
250	0.11.67
249	0.14.47
नाला	0.01.65
248	0.20.06
247	0.08.67
246	0.32.48
245	0.18.71
244	0.15.28
243	0.12.06
रेल्वे	0.10.42
242	0.35.88

गाँव का नाम	सर्वेक्षण / खंड संख्या	क्षेत्र हेक्टर/आरे/चो.मी.
1	2	3

गालयाती नदी	0.04.50
201	0.32.55
200	0.42.15
रोड	0.03.15
198	0.18.64
197	0.01.28
बंद	0.03.50
निरमा लिमिटेड	1.91.27

[ सं. आर.-31015/14/99-ओ.आर.-I ]

के. पी. के. नम्बीशन, अपर सचिव

New Delhi, the 5th November, 1999

S. O. 3179.— Whereas it appears to the Central Government that it is necessary in the public interest, that for the transport of petroleum products from Gujarat Refinery, Indian Oil Corporation Limited, Dumad Tank Farm, Dumad, Taluka and District Baroda in the state of Gujarat to Alindra Taluka Savli District Baroda in the State of Gujarat a pipeline should be laid by the Gujarat Refinery, Indian Oil Corporation Limited Baroda;

And, whereas, for the purpose of laying such pipeline it is necessary to acquire the right of user in the lands described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the lands described in the said Schedule may within twenty-one days from the date on which the copies of this notification as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to Shri V.J. Rajput, the Deputy Collector and competent authority Gujarat Refinery, Indian Oil Corporation Limited, Koyali, P.O. Jawaharnagar, Baroda.

**SCHEDULE****Taluka Baroda, Dist - Baroda, State : Gujarat**

Name of Village	Survey / Block Number	Area Ha-Ar-Sm.
1	2	3
ASHOJ	183	0.02.26
	182	0.08.04
	181	0.10.43
	177	0.13.29
	175	0.15.02
	174	0.12.39
	CART TRACK	0.01.00
	CANAL DISTRY.	0.08.96
	169	0.26.00
	173	0.00.06
	CART TRACK	0.06.04
	165	0.12.90
	CART TRACK	0.01.00
	157	0.09.22
	158	0.01.00
	156	0.09.67
	153	0.00.51
	155	0.10.59
	147	0.12.68
	111/P	0.26.69
	CART TRACK	0.02.98
	110	0.07.64
	108	0.02.15
	106	0.09.31
	103	0.00.20
	107	0.08.03
	102	0.09.52
	98	0.01.16
	99	0.12.92
	84	0.15.36
	83	0.00.22
	82	0.11.23
	72	0.25.50
	73	0.09.26
	75	0.00.41
	W.B.M. Road	0.09.01
	70	0.00.61
	69	0.21.53

**SCHEDULE****Taluka Savli, Dist - Baroda, State : Gujarat**

Name of Village	Survey / Block Number	Area Ha-Ar-Sm.
1	2	3
PILOL	200/1	0.09.37
	201	0.03.24
	202	0.13.46
	205	0.06.75
	194	0.06.64
	193	0.09.04
	192	0.00.01
	206/1	0.00.68
	181/1	0.21.88
	1145	0.19.96
	211	0.00.83
	179	0.11.78
	213	0.05.06
	177	0.08.39
	175	0.05.18
	174	0.10.09
	173	0.08.41
	CART TRACK	0.02.01
	168	0.07.68
	217/1	0.06.62
	217/3	0.00.38
	CART TRACK	0.00.94
	218/1	0.04.18
	218/2	0.00.37
	219	0.08.24
	221	0.09.94
	222	0.08.15
	CART TRACK	0.02.20
	228/1	0.04.58
	224	0.05.32
	279	0.13.63
	288/2	0.00.79
	281/1	0.11.39
	282	0.15.35
	286	0.00.01
	284/1	0.16.44
	301	0.04.88
	300	0.14.64

Name of Village	Survey / Block Number	Area Ha-Ar-Sm.
1	2	3
	CART TRACK	0.02.28
	304	0.10.15
	303	0.00.28
	333	0.02.31
	332	0.30.02
	316	0.00.17
	330	0.00.01
	328	0.07.07
	322	0.25.46
	325	0.09.12
	323	0.11.25
	CART TRACK	0.01.57
	749	0.11.10
	748	0.11.47
	740	0.03.25
	742	0.16.25
	743	0.06.76
	579	0.15.96
	580	0.10.59
	581	0.00.37
	583	0.13.81
	586	0.21.72
	572	0.14.48
	562	0.32.28
	569	0.00.52
	568	0.52.38
	CANAL	0.03.01
	507	0.06.21
ALINDRA	251	0.14.29
	250	0.11.67
	249	0.14.47
	NALA	0.01.65
	248	0.20.06
	247	0.08.67
	246	0.32.48
	245	0.18.71
	244	0.15.28
	243	0.12.06
	RAILWAY	0.10.42
	242	0.35.88



Name of Village	Survey / Block Number	Area Ha-Ar-Sm.
1	2	3
	GALIYAT RIVER	0.0450
	201	0.3255
	200	0.4215
	ROAD	0.0315
	198	0.1864
	197	0.0128
	GRASS PATCH	0.0350
	M/S NIRMA	1.9127

[F. No. R-31015/14/99-OR-I]  
K.P.K. NAMBISSAN, Under Secy

नई दिल्ली, 5 नवम्बर, 1999

का.आ. 3180.— केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में इन्डियन ऑयल कॉर्पोरेशन लिमिटेड, बडोदा की गुजरात रिफाइनरी से पेट्रोलियम उत्पादों के परिवहन के लिए, दुमाड टैंक फार्म तालुका जिला - बडोदा तक गुजरात रिफाइनरी इन्डियन ऑईल कॉर्पोरेशन लिमिटेड, बडोदा द्वारा पाइप लाइने बिछाई जानी चाहिए।

और ऐसी पाइप लाइन बिछाए जाने के प्रयोजन के लिए इस अधिसूचना के साथ उपावध्व अनुसूची में वर्णित भूमिमें उपयोग का अधिकार अर्जित करना आवश्यक है;

अतः अब केन्द्रीय सरकार पेट्रोलियम और खनिज पाइप लाइन ( भूमि में उपयोगका अधिकार का अर्जन ) अधिनियम, 1962 ( 1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उसमें उपयोगके अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

उक्त अनुसूची में वर्णित भूमि में हितवद्ध कोई व्यक्ति, उस तारीख से, जिसको भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर, भूमि के नीचे पाइप लाइन बिछाने के संबंध में या उनमें उपयोग के अधिकार का अर्जन करने संबंधी लिखित में आक्षेप, श्री बी. जे. राजपूत, डेप्युटी कलेक्टर व सक्षम प्राधिकारी, गुजरात रिफाइनरी इन्डियन आयल कॉर्पोरेशन लिमिटेड, कोयली डाक घर जवाहरनगर बडोदा, गुजरात को कर सकता है।

## अनुसूची

तालुका: बडौदा

जिल्ला: बडौदा

राज्य: गुजरात

गाँव का नाम	सर्वेक्षण / खंड संख्या	क्षेत्र हेक्टर/आरे/चो.मी
करचीया	402	0.09.14
	400	0.14.50
	399	0.05.14
	401	0.23.45
	कार्ट ट्रैक	0.01.89
	350/2	0.00.01
	351	0.0019
	351/रोड	0.00.84
	352/2	0.00.16
	352/रोड	0.00.32
	375	0.09.04
	352/1	0.05.06
	352/रोड	0.02.64
	कार्ट ट्रैक	0.04.97
	353	0.0063
	353/रोड	0.02.22
	374/3	0.03.78
	374/2	0.03.49
	374/1	0.05.00
	रोड (करचीया-खोली)	0.05.00
	372/1 }	0.07.70
	372/2 }	
	373	0.39.82
	369	0.23.19
	368	0.29.00
	कार्ट ट्रैक	0.02.55
	367/1 }	0.17.00
	367/2 }	
	366	0.30.45
	365	0.15.51
	कार्ट ट्रैक	0.06.36
खोली	915	0.20.14
	916	0.27.96
	914	0.01.80
	917	0.11.74
	912	0.33.15
	रोड	0.05.00
	911	0.20.74
	ओवर ब्रिज	0.11.44
	910	0.16.37
	नाला	0.13.13

630

तालुका: बडौदा

जिल्ला: बडौदा

राज्य: गुजरात

गाँव का नाम	सर्वेक्षण / खंड संख्या	क्षेत्र हेक्टर/आरे/चो.मी.
	रोड	0.08.48
	667 } 630	0.04.80
	668 }	0.18.41
	रोड (नोली-रिफाईनरी)	0.11.85
	रेल्वे (अहमदाबाद-मुंबई)	0.23.64
	353	0.63.44
	352	0.30.90
	928	0.10.31
	927	0.05.55
	355	0.08.30
	356	0.33.72
	365	0.17.54
	366	0.05.54
	367	0.42.08
	371	0.30.03
	कार्ट ट्रैक	0.07.68
	370	0.00.48
	375	0.00.13
	427	0.39.23
	426	0.06.94
	425	0.19.05
	428 }	
	429 }	0.14.31
	430 }	
	424	0.60.73
	432	0.06.91
	422	0.06.90
	421	0.57.50
	420	0.33.54
	415	0.00.34
	414	0.39.44
	411	0.00.21
	412	0.13.59
	413	0.31.60
	कार्ट ट्रैक	0.07.56
	380	0.01.76
	381	0.27.66
	405	0.02.74
	406	0.00.81
	382	0.15.65
	383	0.41.39
	324	0.00.23
	384	0.05.20
	323	0.03.46
	322	0.08.01
	387	0.11.94

तालुका: बडौदा

जिल्ला: बडौदा

राज्य: गुजरात

गाँव का नाम	सर्वेक्षण / खंड संख्या	क्षेत्र हेक्टर/आरे/चो.मी.
पदमला	321	0.38.46
	320	0.15.56
	कार्ट ट्रैक	0.02.22
	428	0.19.92
	427	0.18.49
	426	0.36.13
	425	0.77.19
	कार्ट ट्रैक	0.08.37
	424	0.07.82
	405	0.85.82
	404	0.36.18
	403	0.14.25
	402	0.03.54
	नेशनल हाइ वे नं. - ८	0.21.00
	कार्ट ट्रैक	0.04.00
	380	0.24.18
	306	0.29.82
	378	0.00.66
	307	0.36.00
	कार्ट ट्रैक	0.03.04
आजोड	305	0.91.00
	293	0.65.59
	294	0.03.83
	295	0.86.00
	297	0.21.90
	296	0.09.91
	273	0.50.08
	274	0.38.52
	262	0.17.21
	261	0.47.49
	232	0.00.24
	235	0.16.37
	कार्ट ट्रैक	0.13.39
	236	0.29.51
	कार्ट ट्रैक	0.08.52
	64	0.51.12
	63	0.03.98
	72	0.39.80
	71	0.12.81
	70	0.00.68
	73	0.20.31
	80	1.05.00
	74	0.00.50

तालुका: बडीदा

जिल्ला: बडीदा

राज्य: गुजरात

गाँव का नाम	सर्वेक्षण / खंड संख्या	क्षेत्र हेक्टर/आरे/चो.मी.
	75	0.00.50
	81	0.04.41
	79	0.37.92
	82	0.30.82
	251	0.04.75
	99	0.06.01
	83	0.20.36
	98	1.27.82
	97	0.22.51
	कार्ट ट्रैक	0.09.74
	89	0.00.01
	96	0.06.27
	95	0.35.62
	94	0.01.68
	रोड	0.08.80
	125	1.03.39
	126	0.29.14
	129	0.28.08
	127	0.13.56
	128	0.49.75
	कार्ट ट्रैक	0.03.20
	147	0.42.90
	143	0.04.39
	144	0.18.38
	146	0.11.02
	145	0.46.28
	कार्ट ट्रैक	0.03.44
	176	0.29.00
	कार्ट ट्रैक	0.08.40
	196	0.07.69
	194	0.31.49
	177	0.36.92
	सूचित एक्सप्रेस हाइ वे	0.31.21
	178	0.76.25
	कार्ट ट्रैक	0.03.27
	188	0.00.03
	210	0.49.90
	211	0.34.25
	213	0.09.10
	212	0.30.37
	214	0.25.16
	रोड	0.10.40
	221	0.14.92
	222	0.50.47

तालुका: बडौदा

जिल्ला: बडौदा

राज्य: गुजरात

गाँव का नाम	सर्वेक्षण / खंड संख्या	क्षेत्र हेक्टर/आरे/चो.मी.
	217	0.17.10
	218	0.38.88
	220	0.24.64
	219	0.17.62
	कार्ट ट्रैक	0.04.95
	276	0.66.64
	280	0.05.26
	279	0.22.15
	कार्ट ट्रैक	0.10.16
	283	0.08.82
	284	0.71.67
	287	0.07.36
	289	0.34.72
	286	0.02.67
	290	0.39.09
	297	0.42.78
	296	0.02.50
	कार्ट ट्रैक	0.02.70
सीसया	143	0.00.01
	142	0.56.66
	61	0.36.37
	141	0.00.12
	137	0.22.12
	136	0.05.62
	82	0.10.26
	135	0.02.57
	83	0.39.92
	84	0.00.42
	125	0.72.00
	85	0.00.01
	123	0.09.42
	124	0.29.12
	122	0.00.01
	121	0.10.50
	119	0.32.24
	120	0.00.01
	118	0.33.60
	117	0.54.17
	कार्ट ट्रैक	0.07.66
	300	0.18.60
	301	0.21.42
	302	0.12.65
	304	0.18.71
	303	0.19.75
	310	0.71.70
	311	0.00.62

तालुका: बडौदा

जिल्ला: बडौदा

राज्य: गुजरात

गाँव का नाम	सर्वेक्षण / खंड संख्या	क्षेत्र हेक्टर/आरे/चो.मी.
	कार्ट ट्रेक	0.05.16
	372	0.08.92
	373	0.04.03
	371	0.22.52
	374	0.13.64
	375	0.75.09
	376	0.00.01
	381	0.05.12
	387	0.13.42
	388	0.27.07
	390	0.17.47
	389	0.03.93
	396	0.28.83
	395	0.06.87
	कार्ट ट्रेक	0.02.33
	397	0.25.62
	431	0.00.97
	407	0.47.47
	408	0.02.77
	405	0.04.97
	कार्ट ट्रेक	0.02.51
	408	0.12.28
	411	0.20.55
	410	0.44.16
	413	0.33.83
	414	0.36.91
	415	0.32.43
	कार्ट ट्रेक	0.12.57
	416	0.00.25
	423	0.01.17
	422	0.29.25
	419	0.11.80
	421	0.10.68
	420	0.20.77
आसोज	259	0.32.75
	260	0.13.19
	258	0.04.05
	रेल्वे	0.20.80
	257	0.03.90
	255	0.62.00
	241	0.03.75
	254	0.36.67
	242	0 10 60
	243	0.09.85
	244	0.04.50

तालुका: बड़ौदा

जिल्ला: बड़ौदा

राज्य: गुजरात

गाँव का नाम	सर्वेक्षण / खंड संख्या	क्षेत्र हेक्टर/आरे/चो.मी.
	246	0.16.00
	247	0.00.10
	रोड (बड़ौदा-सावली)	0.15.38
	214	0.27.62
	213	0.84.37
	212	0.37.33
	211	0.40.51
	210	0.07.12
	गलीयात नदी	0.06.85
दुमाड	777	0.01.84

[सं. आर.- 31015/15/99-ओ.आर.-1]

के. पी. के. नम्बीशन, अवर सचिव

New Delhi, the 5th November, 1999

S. O. 3180.— Whereas it appears to the Central Government that it is necessary in the public interest, that for the transport of petroleum products from Gujarat Refinery, Indian Oil Corporation Limited, Baroda in the state of Gujarat to Dumad Tank Farm, Taluka Baroda in the state of Gujarat, pipelines should be laid by the Gujarat Refinery, Indian Oil Corporation Limited Baroda;

And, whereas, for the purpose of laying such pipeline, it is necessary to acquire the right of user in the lands described in the Schedule annexed to this notification;

Now, therefore, in exercise of powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the lands described in the said Schedule may within twenty-one days from the date on which, the copies of this notification, as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to Shri V.J. Rajput, the Deputy Collector and competent authority Gujarat Refinery, Indian Oil Corporation Limited, Koyali, P.O. Jawaharnagar, Baroda.



**SCHEDULE****Taluka Baroda, Dist - Baroda, State : Gujarat**

Name of Village	Survey / Block Number	Area Ha- Ar. -Sm.
KARACHIA	402	0.09.14
	400	0.14.50
	399	0.05.14
	401	0.23.45
	CART TRACK	0.01.89
	350/2	0.00.01
	351	0.00.19
	351/Road	0.00.84
	352/2	0.00.16
	352/Road	0.00.32
	375	0.09.04
	352/1	0.05.06
	352/Road	0.02.64
	CART TRACK	0.04.97
	353	0.00.63
	353/Road	0.02.22
	374/3	0.03.78
	374/2	0.03.49
	374/1	0.05.00
	Road (Karachia to Ranoli)	0.05.00
	372/1 }	0.07.70
	372/2 }	
	373	0.39.82
	369	0.23.19
	368	0.29.00
	CART TRACK	0.02.55
	367/1 }	0.17.00
	367/2 }	
	366	0.30.45
	365	0.15.51
	CART TRACK	0.06.36
RANOLI	915 }	0.20.14
	916 }	0.27.96
	914 }	0.01.80
	917 }	0.11.74
	912 }	0.33.15
	Road }	0.05.00
	911 }	0.20.74
	Over bridge }	0.11.44
	910 }	0.16.37
	Nala	0.13.13
	Road	0.08.48
	667 }	0.04.80
	666 }	0.18.41
	630	
	Road- Ranoli to Refinery	0.11.85
	Rail-Ahmedabad to Bombay	0.23.64
	353	0.63.44
	352	0.30.90
	928	0.10.31
	927	0.05.55

**Taluka Baroda, Dist - Baroda, State : Gujarat**

Name of Village	Survey / Block Number	Area Ha- Ar. -Sm.
	355	0.08.30
	356	0.33.72
	365	0.17.54
	366	0.05.54
	367	0.42.08
	371	0.30.03
	CART TRACK	0.07.68
	370	0.00.48
	375	0.00.13
	427	0.39.23
	426	0.06.94
	425	0.19.05
	428 }	0.14.31
	429 }	
	430 }	
	424	0.60.73
	432	0.06.91
	422	0.06.90
	421	0.57.50
	420	0.33.54
	415	0.00.34
	414	0.39.44
	411	0.00.21
	412	0.13.59
	413	0.31.60
	CART TRACK	0.07.56
	380	0.01.76
	381	0.27.66
	405	0.02.74
	406	0.00.81
	382	0.15.65
	383	0.41.39
	324	0.00.23
	384	0.05.20
	323	0.03.46
	322	0.08.01
	387	0.11.94
	321	0.38.46
	320	0.15.56
	CART TRACK	0.02.22
PADAMALA	428	0.19.92
	427	0.18.49
	426	0.36.13
	425	0.77.19
	CART TRACK	0.08.37
	424	0.07.82
	405	0.85.82
	404	0.36.18
	403	0.14.25
	402	0.03.54

## Taluka Baroda, Dist - Baroda, State : Gujarat

Name of Village	Survey / Block Number	Area Ha- Ar. -Sm.
	NATIONAL HIGHWAY - 8	0.21.00
	CART TRACK	0.04.00
	380	0.24.18
	306	0.29.82
	378	0.00.66
	307	0.36.00
	CART TRACK	0.03.04
	305	0.91.00
	293	0.65.59
	294	0.03.83
	295	0.86.00
	297	0.21.90
	296	0.09.91
	273	0.50.08
	274	0.38.52
	262	0.17.21
	261	0.47.49
	232	0.00.24
	235	0.16.37
	CART TRACK	0.13.39
	236	0.29.51
	CART TRACK	0.08.52
AAJOD	64	0.51.12
	63	0.03.98
	72	0.39.80
	71	0.12.81
	70	0.00.68
	73	0.20.31
	80	1.05.00
	74	0.00.50
	75	0.00.50
	81	0.04.41
	79	0.37.92
	82	0.30.82
	251	0.04.75
	99	0.06.01
	83	0.20.36
	98	1.27.82
	97	0.22.51
	CART TRACK	0.09.74
	89	0.00.01
	96	0.06.27
	95	0.35.62
	94	0.01.68
	ROAD	0.08.80
	125	1.03.39
	126	0.29.14
	129	0.28.08
	127	0.13.56
	128	0.49.75

## Taluka Baroda, Dist - Baroda, State : Gujarat

Name of Village	Survey / Block Number	Area Ha- Ar. -Sm.
	CART TRACK	0.03.20
	147	0.42.90
	143	0.04.39
	144	0.18.38
	146	0.11.02
	145	0.46.28
	CART TRACK	0.03.44
	176	0.29.00
	CART TRACK	0.08.40
	196	0.07.69
	194	0.31.49
	177	0.36.92
	Proposed express Highway	0.31.21
	178	0.76.25
	CART TRACK	0.03.27
	188	0.00.03
	210	0.49.90
	211	0.34.25
	213	0.09.10
	212	0.30.37
	214	0.25.16
	ROAD	0.10.40
	221	0.14.92
	222	0.50.47
	217	0.17.10
	218	0.38.88
	220	0.24.64
	219	0.17.62
	CART TRACK	0.04.95
	276	0.66.64
	280	0.05.26
	279	0.22.15
	CART TRACK	0.10.16
	283	0.08.82
	284	0.71.67
	287	0.07.36
	289	0.34.72
	286	0.02.67
	290	0.39.09
	297	0.42.78
	296	0.02.50
	CART TRACK	0.02.70
SISWA	143	0.00.01
	142	0.56.66
	61	0.36.37
	141	0.00.12
	137	0.22.12
	136	0.05.62
	82	0.10.26
	135	0.02.57

**Taluka Baroda, Dist - Baroda, State : Gujarat**

Name of Village	Survey / Block Number	Area Ha- Ar. -Sm.
	83	0.39.92
	84	0.00.42
	125	0.72.00
	85	0.00.01
	123	0.09.42
	124	0.29.12
	122	0.00.01
	121	0.10.50
	119	0.32.24
	120	0.00.01
	118	0.33.60
	117	0.54.17
	CART TRACK	0.07.66
	300	0.18.60
	301	0.21.42
	302	0.12.65
	304	0.18.71
	303	0.19.75
	310	0.71.70
	311	0.00.62
	CART TRACK	0.05.16
	372	0.08.92
	373	0.04.03
	371	0.22.52
	374	0.13.64
	375	0.75.09
	376	0.00.01
	381	0.05.12
	387	0.13.42
	388	0.27.07
	390	0.17.47
	389	0.03.93
	396	0.28.83
	395	0.06.87
	CART TRACK	0.02.33
	397	0.25.62
	431	0.00.97
	407	0.47.47
	406	0.02.77
	405	0.04.97
	CART TRACK	0.02.51
	408	0.12.28
	411	0.20.55
	410	0.44.16
	413	0.33.83
	414	0.36.91
	415	0.32.43
	CART TRACK	0.12.57
	416	0.00.25
	423	0.01.17

**Taluka Baroda, Dist - Baroda, State : Gujarat**

Name of Village	Survey / Block Number	Area Ha- Ar. -Sm.
ASOJ	422	0.29.25
	419	0.11.80
	421	0.10.68
	420	0.20.77
	259	0.32.75
	260	0.13.19
	258	0.04.05
	Railway	0.20.80
	257	0.03.90
	255	0.62.00
	241	0.03.75
	254	0.36.67
	242	0.10.60
	243	0.09.85
	244	0.04.50
	246	0.16.00
	247	0.00.10
	Road Baroda Savli	0.15.38
	214	0.27.62
	213	0.84.37
DUMAD	212	0.37.33
	211	0.40.51
	210	0.07.12
	Galiyat River	0.06.85
	777	0.01.84

[F No R-31015/15/99-OR-I]

K.P.K. NAMBISSAN, Under Secy.

**खाद्य और उपभोक्ता मामले मंत्रालय**

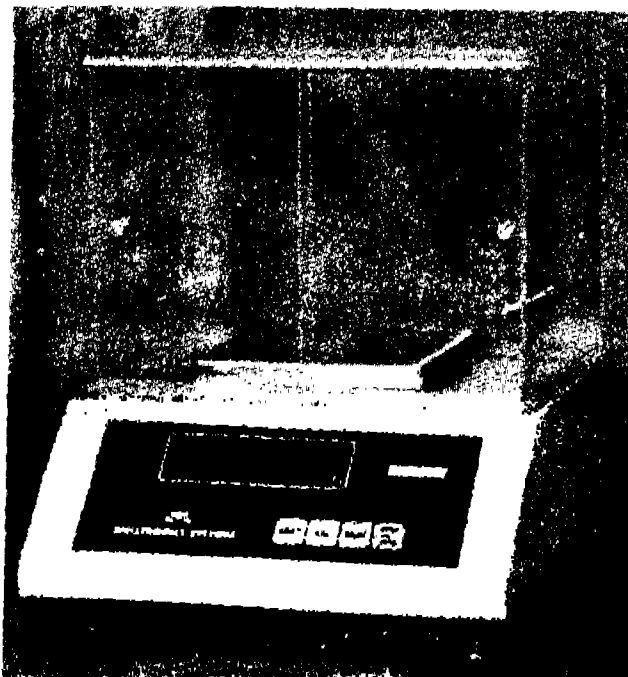
( उपभोक्ता मामले विभाग )

नई दिल्ली, 22 अक्टूबर, 1999

**का.आ. 3181.**—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उच्च यथार्थता वर्ग (वर्ग II यथार्थता) वाली 'डब्ल्यू एस एस' शृंखला की, स्वतः सूचक, अस्वचालित, इलैक्ट्रॉनिक अंकक सूचन सहित अस्वचालित तोलन उपकरण (मेज तल) प्रकार के मॉडल का, जिसके ब्रांड का नाम 'विलट्रानिक्स' है, (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसका विनिर्माण मैसर्स विल ट्रानिक्स सिस्टम, 259/बी, नाहर और सेठ इंडस्ट्रीयल इस्टेट लालबहादुर शास्त्री मार्ग, भांडुप, मुंबई-400 078 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/99/28 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

यह मॉडल उच्च यथार्थता वर्ग (यथार्थता वर्ग II यथार्थता) का अंकक सूचन सहित, मेज तल प्रकार के अस्वचालित, तोलन उपकरण है, जिसकी अधिकतम क्षमता 6 किलोग्राम और न्यूनतम क्षमता 25 ग्राम है। सत्यापन मापमान अन्तराल (ई) 500 मिलिग्राम है। भारग्राही प्रदर्श इकाई प्रकाश उत्सर्जक डायोड प्रकार की है। उपकरण 230 वोल्ट और 50 हर्टज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक और यथार्थता वाला ऐसा तोलन उपकरण भी होगा, जिसका विनिर्माण उसी विनिर्माता द्वारा उसी डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है, और जिसके सत्यापन मापमान का अन्तराल (एन) की अधिकतम संख्या 1,00,000 (एन  $\leq$  1,00,000) तक है तथा जिसका "ई" मान  $1 \times 10^*$ ,  $2 \times 10^*$ , और  $5 \times 10^*$ , है धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम.-21(4)/99]

पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

**MINISTRY OF FOOD AND CONSUMER AFFAIRS****(Department of Consumer Affairs)**

New Delhi, the 22nd October, 1999

**S. O. 3181.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see figure), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions,

Now, therefore, in exercise of the powers conferred by sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of non-automatic weighing instrument (table top type) with digital indication of (hereinafter referred to as the model) of "WSS" series belonging to high accuracy class (Accuracy class II) and with the brand name "WELLTRONICS" manufactured by M/s. Welltronics System, 250/ B Nahar and Seth Ind. Estate L.B.S. Marg Bhandup, Mumbai-400 078, and which is assigned the approval mark IND/09/99/28;

The model is a non-automatic weighing instruments of table top type with digital indication of maximum capacity 6 kg and minimum capacity of 25 g. and belonging to high accuracy class (Accuracy class II). The value of verification scale interval (e) is 500 mg. The display unit is of light emitting diode type. The instrument operates on 230 V, 50 Hertz, alternate current power supply.



Further, in exercise of the powers conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instruments of same make and accuracy and class with maximum number of scale interval (n) upto 1,00,000 ( $n \leq 1,00,000$ ) and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$ , and  $5 \times 10^k$ , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer with the same design and with the same materials with which, the approved model has been manufactured.

[F. No WM-21 (4)/99]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

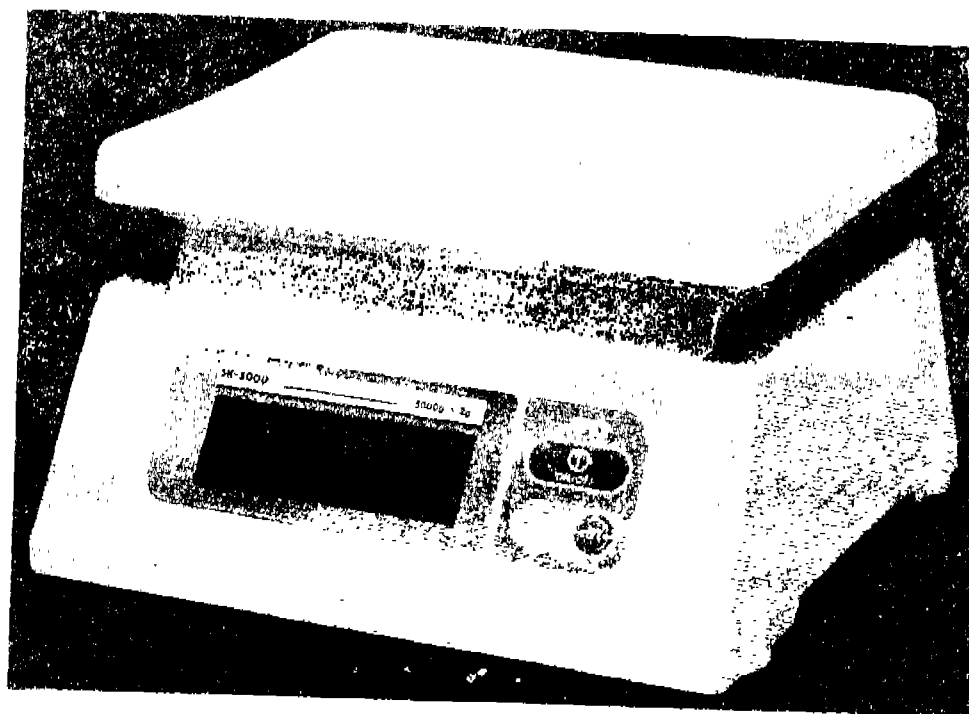


नई दिल्ली, 25 अक्टूबर, 1999

का.आ. 3182.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आवृत्ति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा;

अतः केंद्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) वाली 'एम के' शृंखला की, अंकक सूचन सहित अस्वचालित, तोलन उपकरण (मेज तल प्रकार का) के मॉडल का जिसके ब्रांड का नाम "एचन इंटरप्राइजेज" है, (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसका विनिर्माण मैसर्स एचन इंटरप्राइजेज, 5 ई वैभन, एस०पी० रोड, (इरला), विले पार्ले (पश्चिम), मुंबई-400 056 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/99/77 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

यह मॉडल मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) का अंकक सूचन सहित, अस्वचालित, मेज तल प्रकार का तोलन उपकरण है, जिसकी अधिकतम क्षमता 5000 किलोग्राम और न्यूनतम क्षमता 40 ग्राम है। सत्यापन मापमान अन्तराल (ई) 2 ग्राम है। प्रदर्श इकाई द्रव किस्तल प्रकार की है। उपकरण 9 वोल्ट आवृत्ति की दिष्ट धारा विद्युत प्रदाय पर कार्य करता है।



और, केंद्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक और यथार्थता वाला ऐसा तोलन उपकरण भी होगा, जिसका विनिर्माण उसी विनिर्माता द्वारा उसी डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है, और जिसके सत्यापन मापमान का अन्तराल (एन) की अधिकतम संख्या 10,000 (एन  $\leq$  10,000) तक है तथा जिसका "ई" मान  $1 \times 10^*$ ,  $2 \times 10^*$ , और  $5 \times 10^*$  है 'के' धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम.-21(106)/98]

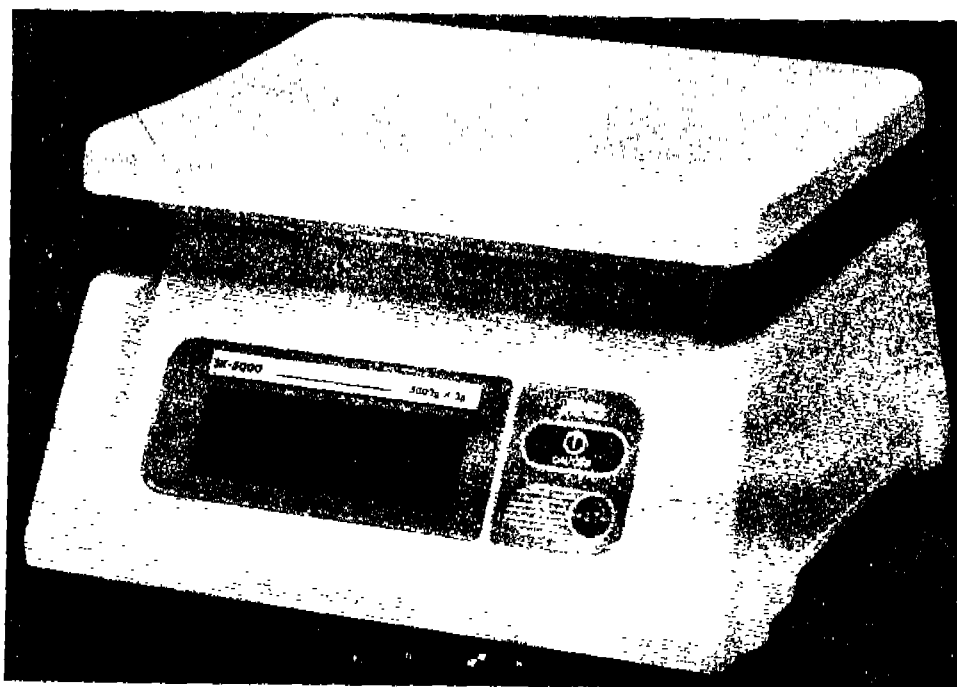
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 25th October, 1999

**S. O. 3182.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of non-automatic, weighing instrument (table top type) with digital indication of "SK" series with brand name 'AVON ENTERPRISE.' (hereinafter referred to as the model) belonging to medium accuracy class (Accuracy class III) manufactured by M/s. Avon Enterprise, 5 E Vaibhav, 140, S.V. Road, (Irla) Vile Parle, (W) Mumbai-400 056, and which is assigned the approval mark IND/09/99/77;

The model is a non-automatic weighing instruments of table top type with digital indication of maximum capacity 5000 g. and minimum capacity of 40 g. and belonging to medium accuracy class (Accuracy class III). The value of verification scale interval (e) is 2 g. The display unit is of liquid crystal diode type. The instrument operates on 9 V direct current power supply.



And further, in exercise of the powers conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instrument of same make and accuracy class with maximum number of scale interval (n) upto 10,000 ( $n \leq 10,000$ ) and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$ , and  $5 \times 10^k$ , k being positive or negative whole number or equal to zero, manufactured by the same manufacturer with the same design and with the same materials with which the approved model has been manufactured.

[F. No. WM-21 (106)/98]

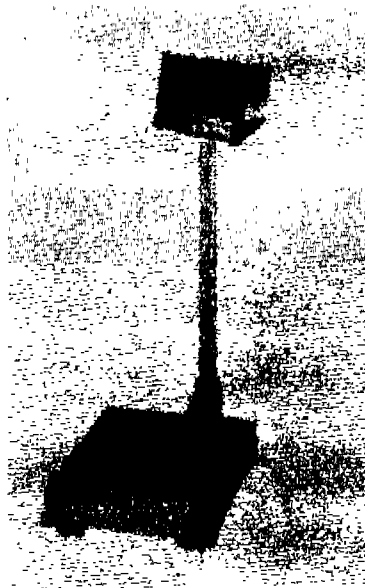
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 25 अक्टूबर, 1999

का.आ. 3183.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) वाली “एवी” शृंखला की, अंकक सूचन सहित अस्थचालित, तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम “एवन इंटरप्राइजेज” है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसका विनिर्माण मैसर्स एवन इंटरप्राइजेज, 5-ई वैभव, एस०वी० रोड, (इरला), विले पार्ले (पश्चिम), मुंबई-400 056 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/99/78 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

यह मॉडल मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) का अंकक सूचन सहित, अस्थचालित प्लेटफार्म प्रकार का तोलन उपकरण है, जिसकी अधिकतम क्षमता 30 किलोग्राम और न्यूनतम क्षमता 100 ग्राम है। सत्यापन मापमान अन्तराल (ई) 5 ग्राम है। प्रदर्श इकाई प्रकाश उत्सर्जन प्रकार की है। उपकरण 230 वोल्ट और 50 हर्टज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है;



और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक और यथार्थता वाला ऐसा तोलन उपकरण भी होगा जिसका विनिर्माण उसी विनिर्माता द्वारा उसी डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है, और जिसके सत्यापन मापमान का अन्तराल (एन) की अधिकतम संख्या 10,000 ( $\text{एन} \leq 10,000$ ) तक है तथा जिसका “ई” मान  $1 \times 10^*$ ,  $2 \times 10^*$  और  $5 \times 10^*$  है, ‘के’ घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम.-21(106)/98]

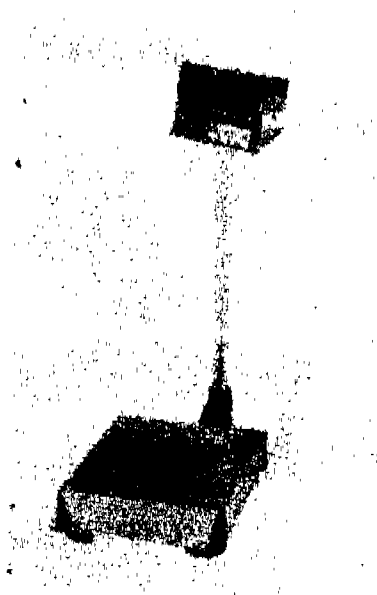
पी.ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 25th October, 1999

**S.O. 3183.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of model of non-automatic, weighing instrument (platform type) with digital indication of "AV" series with brand name "AVON ENTERPRISE" (hereinafter referred to as the model) belonging to medium accuracy class (Accuracy class III ) manufactured by M/s. Avon Enterprise, 5-E Vaibhav, 140, S.V. Road, (Irla) Vile Parle, (W), Mumbai-400 056, and which is assigned the approval mark IND/09/99/78 :

The model is a non-automatic weighing instruments of platform type with digital indication of maximum capacity of 30 kg and minimum capacity of 100 g. and belonging to medium accuracy class (Accuracy class III ). The value of verification scale interval (e) is 5 g. The display unit is of light emitting diode type. The instrument operates on 230 V, 50 Hertz, alternate current power supply.



And further, in exercise of the powers conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instruments of same make and accuracy class with maximum number of scale interval (n) upto 10,000 ( $n \leq 10,000$ ) and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$  and  $5 \times 10^k$ , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer with the same design and with the same materials with which, the approved model has been manufactured.

[F. No WM-21 (106)/98]

P A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 25 अक्टूबर, 1999

**का.आ. 3184.**—केन्द्रीय सरकार का, त्रिहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, टैक्सी/आटो रिक्शा (यांत्रिक प्रकार का) किराया मीटर के माडल का, जिसके ब्रांड का नाम "भारथ" है (जिसे इसमें इसके पश्चात् माडल कहा गया है) और जिसका विनिर्माण मैसर्स इनाम मीटर मैन्यूफैक्चरिंग कंपनी प्राइवेट लिमिटेड, 11-5-416/ए, रेड हिल्स, हैदराबाद-500 004 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/99/76 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;



यह माडल आटो रिक्शा के लिए यांत्रिक प्रकार का किराया मीटर है, इस उपकरण में समय और दूरी मापने की युक्ति समाविष्ट है। यह यात्रा के किसी भी क्षण यात्री के द्वारा संदेय प्रभार्य का निरंतर योग करेगा और प्रदर्शित करेगा। यात्रा की दूरी और निश्चित गति से कम पर लगी समयावधि का प्रभार संदेय किराया है।

[फा. सं. डब्ल्यू. एम.-21(113)/98]

पी.ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of the (mechanical type) taxi/autorikshaw fare meter with brand name "BHARATH" (hereinafter referred to as the model) manufactured by M/s Inam Meter Mfg. Co. Pvt. Ltd, 11-5-416/A, Red Hills, Hyderabad-500 004 and which is assigned the approval mark IND/09/99/76;



[F. No. WM-21 (113)/98]

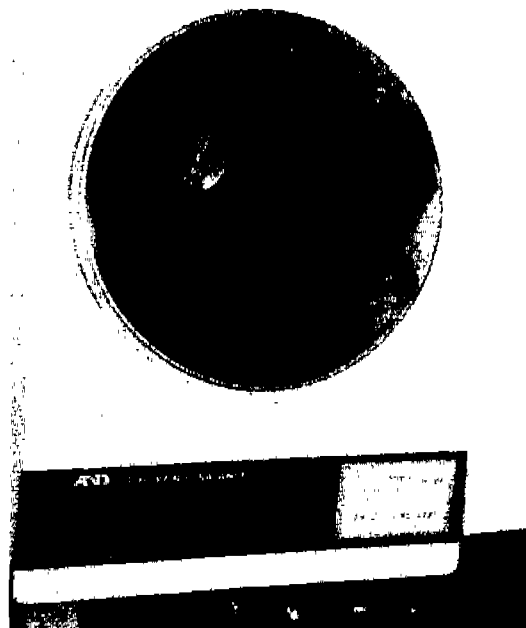
P.A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 25 अक्तूबर, 1999

का.आ. 3185.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट और नोदरलैंड्स मिनिस्ट्रियूट (एन एम आई) जो नोदरलैंड में उस प्रयोजन के लिए राष्ट्रीय निकाय है पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (3) और उपधारा (7) के तीसरे परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, "एफ एक्स ई सी" प्रकार के अंकक सूचन सहित इलेक्ट्रानिक तोलन मशीन के मॉडल का (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसका विनिर्माण मेसर्स ए एण्ड डी इस्ट्रूमेंट्स लिमिटेड, किंगटन साइंस पार्क, एर्विंगटन, आमर्स फोर्ड ओ एक्स 143 वाई एस यूनाइटेड किंगडम द्वारा किया गया है और भारत में मेसर्स ग्रेट व (इंडिया) 47 हाइडमार्केट अमृतसर-143 001 द्वारा विक्रीत किया गया है। और जिसे अनुमोदन चिह्न आई एन डी/13/99/39 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

यह मॉडल (आकृति देखें) उच्च यथार्थता वर्ग (वर्ग II) का एफ एक्स-ई सी प्रकार के अंकक सूचन सहित इलेक्ट्रानिक तोलन मशीन है, जिसकी अधिकतम क्षमता 310 ग्राम और सत्यापन मापमान अन्तराल (ई) 10 मिलिग्राम है। भारग्राही वृत्ताकार है जिसका व्यास 105 मिलीमीटर है। तोलन प्रदर्श निर्वात फ्लोरिसेंट प्रकार का है। उपकरण 230 वोल्ट, 50 हर्टज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है;



और, केन्द्रीय सरकार, उक्त धारा की उपधारा (12) कार्यकरण द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाण पत्र के अंतर्गत, उसी शृंखला के उसी मेक यथार्थता और वाला ऐसा तोलन उपकरण भी होगा जिसकी अधिकतम क्षमता 200 ग्राम से 6100 ग्राम के बीच की रेंज की होगी। जिसका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त डिजाइन और उसी सामग्रो से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है।

[फा. सं. डब्ल्यू. एम.-21(118)/98]

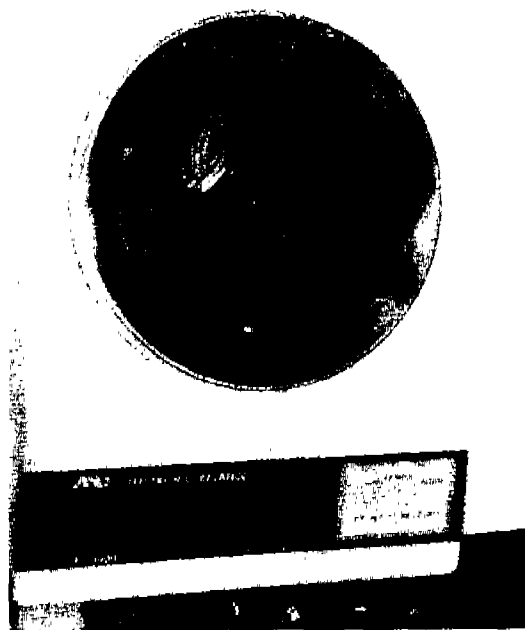
पी.ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 25th October, 1999

**S. O. 3185.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, and also the pattern approval and test result granted and approved by the Netherlands, Meetinstituut (NMI), the national body for the purpose in Netherlands, is satisfied that the model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976), and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by the third proviso to sub-section (3) and sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of model of electronic weighing machine with digital display of FX-EC Type (herein referred to as the model) manufactured by M/s A&D Instruments Ltd., Abingdon Science Park, Abingdon, Oxford OX 14 3YS, United Kingdom, marketed in India by M/s Great Weigh (India), 47, Hide Market, Amritsar-143001 and which is assigned the approval mark IND/13/99/39;

The model (see the figure) is a graduated self-indicating electronic non-automatic weighing instrument with digital display of FX-EC Type belonging to high accuracy class ( class II) Its maximum capacity is 310 g and value of verification scale interval (e) is 10mg. The load receptor is circular shape of diameter 105 mm. The weight display unit is of vacuum fluorescent type. The Instrument operates on 230 V, 50 Hertz alternate current power supply;



Further, in exercise of the powers conferred by sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instruments of similar make, accuracy and performance of the same series with maximum capacity of range in the 200g to 6100g, manufactured by the same manufacturer in accordance with the same principal design and with the same materials with which the approved Model has been manufactured.

[F. No. WM-21 (118)/98]

P. A. KRISHNAMOORTHY, Director, Legal Metrology



नई दिल्ली, 27 अक्टूबर, 1999

**का.आ. 3186.**—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, “हाईलाइन” श्रृंखला का अंकक सूचन सहित डिस्पेंसिंग पंप के मॉडल का (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसका विनिर्माण मैसर्स एवरी इंडिया लिमिटेड, 50-59, सैक्टर-25, बल्लभगढ़-121004 (हरियाणा) द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/99/29 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।



यह मॉडल अंकक सूचन सहित डिस्पेंसिंग पंप का है, जिसकी अधिकतम प्रवाह दर 90 लीटर प्रति मिनट है और न्यूनतम प्रवाह दर 5 लीटर प्रति मिनट है। अंशांकन अन्तराल 10 मिली लीटर है। प्रदर्श इकाई द्रव क्रिस्टल प्रदर्श (एल सी डी) प्रकार का है। उपकरण 230 वोल्ट और 50 हर्टज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है। इसके साथ तेल मिश्रण, पूर्व नियत, दोहरा होस और दूरवर्ती प्राधिकार का विकल्प भी है।

[फा. सं. डब्ल्यू. एम.-21(114)/97]

पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 27th October, 1999

**S. O. 3186.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see figure), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976), and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions:

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of model of a dispensing pump with digital indication (hereinafter referred to as the model) of "HIGHLINE" series, manufactured by M/s Avery India Limited, 50—59, Sector -25, Ballabhgarh-121004 (Haryana) and which is assigned the approval mark IND/09/99/29;



The model is a dispensing pump with digital indication having a maximum flow rate of 90 litre per minute. The minimum flow rate is 5 litre per minute. The graduation interval is 10 ml. The display unit is of Liquid Crystal Display (LCD) type. The instrument operates on 230 V, 50 Hertz alternate current power supply. It has options for oil mix, present, dual hose and remote authorisation.

[File No. WM-21(114)/97]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

## श्रम मंत्रालय

नई दिल्ली, 7 अक्टूबर, 1999

कां०आ०3187:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में, एच.पी.सी.एल. के प्रबन्धन के संबंध नियो-जकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. II) मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-10-99 को प्राप्त हुआ था।

[ सं. एल-30012/75/97-आई आर (सी-I)]  
वी.एस.ए.एस.पी. राजू, डेस्क अधिकारी

## MINISTRY OF LABOUR

New Delhi, the 7th October, 1999

S.O. 3187.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. II), Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. H.P.C.L. and their workman, which was received by the Central Government on 6-10-99.

[No. L-30012/75/97-IR(C-D)]  
V.S.A.S.P. RAJU, Desk Officer

## ANNEXURE

## BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II MUMBAI

## PRESENT:

Shri S. B. Panse, Presiding Officer.

REFERENCE NO. CGIT-2/87 of 1998

Employers in relation to the management of Hindustan Petroleum Corporation Ltd.  
The Chairman and Managing Director, Hindustan Petroleum Corporation Ltd. Petroleum House, Churchgate, Mumbai-20

## AND

Their Workmen

The Vice President, Hindustan Petroleum Karmachari Union, H.P.C.L. Ltd., 17, Jamshedji Tata Road, Mumbai-20.

## APPEARANCES:

For the Employer : S/Shri S. K. Talsania, V.H. Kantharia & B.K. Mistry Advocates.

For the workmen : Mr. Jaiprakash Sawant, Advocate.

Mumbai, dated 14th September, 1999

## AWARD

The Government of India, Ministry of Labour by its Order No. L-30012/75/97-IR(C-D) dated 30th June, 1998 had referred the following Dispute for adjudication.

"Whether the demand of the union to give monetary benefit of Rs. 1,600 as a profit sharing allowance on account of commencing DDC and the pay of Rs. 500 allowance to the employees, who operate DDC system is justified? If so, to what reliefs should be granted?"

2. The Vice-President, Hindustan Petroleum Karmachari Union, Mumbai, filed a Statement of Claim at Exhibit-4. He 3142 GI/99—15.

contended that the Hindustan Petroleum Corporation Ltd. (hereinafter referred to as the Corporation) introduced Digital Integrated Distribution Centre (DDC). It is averred that the union demanded adequate compensation in various forms before the introduction of DDC. But when the matter was pending the scheme was introduced.

3. The union pleaded that the management assured that on introduction of DDC does not result into retrenchment nor affect the promotional prospects or earning capacity of the employees concerned. However, the introduction of DDC had affected all these things. The management is earning huge profits on account of introduction of DDC. The workman who had cooperated and contributed for such profits are entitled to receive their equitable share in gains of the management by way of allowances claimed. The union prays that they are entitled to Rs. 1,000 per workman as a profit sharing allowance to all the workman employed in HPCL, Mumbai Refinery and to give DDC allowance of Rs. 500 per workman per months to all the workmen working in the operations department with retrospective effect.

4. The Corporation resisted the claim by the Written Statement (Ex-6). It is averred that there are two unions operating in the Corporation viz. Petroleum Employees Union (PEU) and Hindustan Petroleum Karmachari Union (HPKU). The HPKU has raised a dispute. The Corporation had signed various long term settlements with these unions. The last settlement dated 28th February 1991 expired on 30th September 1993. Then there were fresh Charter of demands by the unions. There were negotiations between unions and the Corporation between December 1993 to November 1995. In the mean time the Corporation introduced DDC. The HPKU served a strike notice dated 15th April 1994. At that time the Corporation assured to the union that the introduction of DDC will not result into retrenchment nor affect the promotional prospects nor earning capacity of the employees. However, due to the divergent views the conciliation proceedings resulted into failure.

5. On 17th April 1996 a long term settlement was signed between the Corporation and the workmen represented by HPKU and PEU. In view of the said settlement the present dispute does not survive and the union has no claim to make.

6. The Corporation pleaded that the introduction of DDC is necessary to enhance greater safety standards which are no longer operational in running refinery and would not in any way enhance the profit of the corporation. It is averred that the introduction of DDC had not resulted into any retrenchment nor affected the promotional prospects nor earning capacity of the employees. It is denied that the Corporation had earned huge profits, as suggested. It is submitted that they are not entitled to the claim as made.

7. The issues are framed at Exhibit-8. The issues and my findings there on are as follows:—

Issues	Findings
1. Whether the demand of the Union to give monetary benefit of Rs. 1600 as profit sharing allowance on account of commencement of DDC is justified?	No.
2. Whether the demand of the union to pay Rs. 500 as allowance to the employees who operate DDC system is justified?	No.
3. If so, what relief they are entitled to?	Does not survive.

## REASONS

8. S. P. Mande (Ex-10) deposed that the settlement dated 17th April 1996 did not meet the demands and the expectations of the workman after the introduction of DDC. Their demands to claim the amount still survives. He affirmed that the Corporation settled the additional demand and paid Rs. 100 to each employee in the category of clerk in marketing division during the pendency of the settlement. He further affirmed that due to the introduction of DDC the promotional process from the category of process technicians are affected. According to him the Corporation has changed

the service conditions of the workman without complying with section 9 of the Industrial Disputes Act of 1947. In the cross examination he categorically admits that he is signatory to the Memorandum of Settlement dated 17th April 1997 (Ex-7/1) and he is bound by that settlement. He further accepts that they have not challenged the decision of the Government which was communicated by the Desk Officer to them by the letter dated 3-8-95 (Ex-7/2). That letter speaks out the assurances of the Corporation that the introduction of D IDC system will neither result in retrenchment nor the promotional prospects or earning capacity of the concerned workmen will be adversely affected. Mande does not prove that the assurance was not fulfilled.

9. Ganesh Joshi (Ex-12) Manager Technical and Santosh Rao (Ex-13) Manager corroborates each other and affirm that the introduction of D IDC is by way of 'enhance greater safety standards'. It is advanced version of old numerical system of control. They have further stated that the introduction of D IDC system will not in any way enhance the profits of the Corporation. Mande, (Ex-10) accepts that due to the introduction of D IDC there is no retrenchment. He affirms that their union have a membership in the marketing division. It has a separate set of settlement. From his testimony it cannot be ascertained that introduction of the D IDC affected the promotional prospects of the employees or their earning capacities.

10. Clause 1.4 of the Terms of Settlement (Ex-7/1) reads as follows :—

"1.4 All workmen who are on the permanent pay roll of the Corporation on the date of signing of the settlement shall be granted two increments in the revised applicable salary grade effective October 1, 1993 or from date of joining whichever is later. This will also meet the demands/expectations of the workmen in respect of modernisation automation/D IDC/PC operation and new technology which has already been introduced and will be introduced in future."

11. Clause-2.1 of the said settlement reads as follows :—

"2.1. not to raise or pursue during the operation of this settlement any demand involving any increased or additional financial burden on the part of the Corporation provided that this shall not affect the rights and obligations of the parties in regard to matters covered under section 9-A of the Industrial Disputes Act, 1947 or any amendments thereof."

12. After going through these clauses it is very clear that the demand which is made by the union is unjustified. I record my findings on the issues accordingly and pass the following order :—

#### ORDER

The demand of the union to give monetary benefits of Rs. 1,600 profit sharing allowance on a count of commencement of D IDC and to pay Rs. 500 as allowance to the employees who operate D IDC system is not justified.

S. B. PANSE, Presiding Officer

नई दिल्ली, 7 अक्टूबर, 1999

का.का. 3188.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार मै. बी.सी.सी.एल. के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं० 1) धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-10-99 को प्राप्त हुआ था।

[सं. एल-20012/318/89-आई आर (सी-1)]

वी.एस.ए.एस.पी. राजू, डेस्क अधिकारी

New Delhi, the 7th October, 1999

S.O. 3188.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 7-10-99.

[No. L-20012/318/89-IR(C-I)]  
V. S. A. S. P. RAJU, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I AT DHANBAD

In the matter of a reference under Section 10(1)(d)(2A) of the Industrial Disputes Act, 1947

Reference No. 91 of 1990

#### PARTIES :

Employers in relation to the management of Pootkee Balihari Area of M/s. B.C.C. Ltd.

AND

Their Workmen.

#### PRESENT :

Shri Sarju Prasad, Presiding Officer.

#### APPEARANCES :

For the Employers : Shri B. Joshi, Advocate.

For the Workmen : Shri D. Mukherjee, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 24th September, 1999

#### AWARD

By Order No. L-20012/318/89-I.R. (Coal-I), dated 18-4-90 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the demand for Rashtriya Colliery Mazdoor Sangh for re-instatement with full back wages with continuity of service of Shri T. C. Prasad, Establishment Clerk, Personnel Department, Pootkee Balihari Area No. 7 of M/s. Bharat Coking Coal Ltd. is justified? If not, to what relief the workman entitled to?"

2. The brief fact giving rise to this industrial dispute is that the concerned workman, Shri T. C. Prasad, was a permanent clerk in the Personnel Section of Pootkee Balihari Area No. 7 of M/s. Bharat Coking Coal Ltd. The management issued a chargesheet dated 14/15-3-1983 alleging that the concerned workman has committed fraud and dishonestly in connection with the business of M/s. B.C.C. Ltd. in getting eleven persons appointed illegally under forged signature of Shri R. P. Singh the then Dy. Personnel Manager, (Manpower). The chargesheet was signed by the General Manager/Chief Mining Engineer. The allegation against the concerned workman was of adding and abating in posting of eleven persons on the basis of forged and fabricated appointment letters as a permanent clerk in Personnel Section of Pootkee Balihari Area No. 7 of M/s. B.C.C. Ltd. It is alleged that he conspired with other persons and on the strength of fabricated and forged appointment letters under the forged signature of Shri R. P. Singh, Dy. Personnel Manager (Manpower) he got an internal order of posting issued under the signature of Shri V. R. Singh, Dy. Personnel Manager (Establishment) of Pootkee Balihari Colliery.

3. The concerned workman replied to the chargesheet denying the allegations levelled against him and has pleaded that whatever he did was done by him at the instance of his superior officer, Shri V. R. Singh, Dy. Personnel Manager (Establishment). He has pleaded innocence.

4. The reply of the concerned workman was found unsatisfactory by the management. Therefore an enquiry was constituted by the General Manager/Chief Mining Engineer

of Bhagaband Area No. 7 Shri S. N. P. Sinha the then P. r-sonnel Manager was appointed Enquiry Officer and Shri P. M. Prasad, Dy. Personnel Manager was Presenting Officer. The departmental enquiry was held and the Enquiry Officer submitted a report dated 30-8-1987 holding the concerned workman guilty. Thereafter the General Manager/Chief Mining Engineer examined relevant papers and approved the dismissal of the concerned workman by letter dated 28-10-1988 under his signature.

5. The domestic enquiry was challenged to be unfair and improper by the concerned workman. But this Tribunal by order dated 21-2-1995 held that the domestic enquiry was fair and proper.

6. Initially one Sanjay Sinha was detected to have been appointed on the basis of forged appointment letter. Initial enquiries were made and it was found that in all following eleven persons were found to have been posted in the employment of M/s. B.C.C. Ltd. in different capacity on the basis of forged appointment letters under forged signature of Shri R. P. Singh, Dy. Personnel Manager (Manpower) of M/s. B.C.C. Ltd. :-

- (1) Sanjay Sinha.
- (2) Chittaranjan Prasad.
- (3) Dayasankar Prasad.
- (4) Sobhnath Jeswara.
- (5) Surya Bhusan Prasad.
- (6) Kamdeo Prasad.
- (7) Baleshwar Yadav.
- (8) Vijoy Shankar Singh.
- (9) Ashok Kumar Barnwal.
- (10) Lazmi Narayan Singh.
- (11) Munjl Singh.

7. Initial enquiry was made by the Vigilance Department as well as by the management and from the initial enquiry the involvement of following personnels came to light :-

- (1) Sri V. R. Singh, Dy. Personnel Manager (Establishment), Bhagaband Area.
- (2) Sri T. C. Prasad, Clerk (Establishment), Bhagaband Area.
- (3) Sri Manoj Kumar Sinha, Typist-cum-Clerk, Bhagaband Area.
- (4) Sri B. N. Mishra, Despatch Clerk, Bhagaband Area.
- (5) Sri Pradip Kumar Sinha, Clerk, Bhagaband Area.
- (6) Sri Babulal Ram, Hindi Steno-Typist, Bhagaband Area.
- (7) Sri S. C. Srivastava, Clerk, Bhagaband Area.

Therefore, domestic enquiry was proceeded against all the above seven persons. But Sri V. R. Singh died, therefore against him domestic enquiry did not proceed. The management has examined number of witnesses during the domestic enquiry and has examined several persons and has also submitted number of documents. The Enquiry Officer after going through the oral and documentary evidence was pleased to hold this workman, Sri T. C. Prasad guilty of the misconduct.

8. From the written statement of the concerned workman it appears that he has denied the charges and has taken a plea that since he was Establishment Clerk under Sri V. R. Singh therefore he has issued posting orders on the orders being passed by Sri V. R. Singh, the then Dy. Personnel Manager and therefore he is not at all involved and is totally innocent.

9. Since the domestic enquiry has been found to be fair and proper now the points for consideration are -(i) whether on reappraisal of the evidence adduced during the domestic enquiry the charge of misconduct is established against the concerned workman and (ii) whether the action of the management in dismissing the concerned workman is justified? If not, to what relief he is entitled to.

Point No. 1 :

10. The charge sheet which was issued to the concerned workman, Sri T. C. Prasad has been marked Ext. M-3 and his reply to the charge sheet has been marked Ext. M-4. The first witness of the management is Sri M. B. Srivastava, Dy. Chief Vigilance Officer in M/s. B.C.C. Ltd. He has investigated the cases of eleven fake appointees in Bhagaband Area. From his evidence it appears that during his investigation it transpired to him that all the appointment letters of the eleven fake appointees were under forged signature of Sri R. P. Singh and no such appointment letter was issued from Headquarter of M/s. B.C.C. Ltd. It was just as per chance that the fake appointees were detected because one of the fake appointee, Sanjay Sinha who was appointed and posted in Category-IV as Mechanist in Ekra Workshop was getting more wages than one Sri A. K. Chatterjee and he questioned as to how a junior to him is getting more wages than him and it was then enquired into by Sri R. P. Singh, Personnel Manager and it was found that the appointment of Sanjay Sinha was on the basis of forged appointment letter. Thereafter he made enquiry and could detect three more cases of fake appointment and subsequently there was another enquiry by another Personnel Manager, Sri N. L. Singh and then a case of seven more fake appointees were found. It appears from his evidence that the appointment letters on the face of it were such that it could have been easily detected as fake appointments because the format in which the fake appointment letters were issued were altogether different from the format which is usually issued in case of genuine appointment. Furthermore, file number in the appointment letters were mentioned "QQ" which was quite unusual. Further from his evidence it appears that general procedure regarding the receipt of 'Dak' from Headquarters to the Central Office of Bhagaband Area which is also known as Pootkee Bahihari Area is that any letter from Headquarters is first received in the Central Office Receipt Section of Bhagaband Area which is being put upto the General Manager who used to endorse the same to the concerned department, then that letter used to be sent to the concerned department through Peon Book to its Head of Department and after an endorsement from Head of Department any other official was to take follow up action but in case of fake appointees almost all the letters were not received through proper channel; rather, most of them were dealt with directly without any endorsement; in the office of Dy. Personnel Manager (Establishment), where the concerned workman was a dealing clerk. Only three appointment letters were received through proper channel. These three appointment letters were that of (1) Baleshwar Yadav, (2) Vijoy Shankar Singh, and (3) Ashok Kumar Barnwal and rest were directly handled in the office of Sri V. R. Singh, Dy. Personnel Manager and the concerned workman, Sri T. C. Prasad who was attached clerk in that department has put up all those letters for necessary orders before Sri V. R. Singh. From the evidence of this witness it further appears that seven internal posting orders Exts. M-52 to M-58 covering all the eleven fake appointees were issued under the signature of Sri V. R. Singh, Dy. Personnel Manager (Establishment), Bhagaband Area at the area level against their forged appointment letters purported to have been despatched from Karmik Bhawan Headquarter. According to this witness, Sri T. C. Prasad, the concerned workman failed to ensure as an Establishment Clerk, to his Officer Incharge, namely Sri V. R. Singh, Dy. Personnel Manager to point out whether the corresponding appointment letters were actually received through proper channel or it was received hand to hand by some other means. He did not point out that those letters were not received in the Central D. R. Section and there was no endorsement of General Manager and yet the internal posting orders were issued under the signature of Sri V. R. Singh in which he put up file number and letter number etc. making the forged appointment letters to be genuine by an internal posting order. According to him, as a responsible Establishment Clerk Sri T. C. Prasad should have verified seven appointment letters which were not received through proper channel and in that case the fraud could have been easily detected, but by getting an internal posting order issued at the area level under the signature of Sri V. R. Singh, Dy. Personnel Manager (Establishment), Bhagaband Area thereby making those forged appointments as genuine. The concerned workman, Sri T. C. Prasad has admitted in his statement dated 21-2-83 that whatever he has done was done under the instruction of his officer, Sri V. R. Singh, Dy. Personnel Manager. Therefore, it is admitted by the concerned workman that internal posting

order at the area level which was issued under the signature of Sri V. R. Singh, Dy. Personnel Manager (Establishment), Bhagaband Area, was issued by him. The management has further examined Sri K. P. Singh, Dy. Personnel Manager under whose forged signature the appointment letters of eleven persons were said to have been produced. He has clearly stated that all those appointment letters which purported to be under his signature concerning to the eleven persons were forged one. He has further stated that on 20-1-83 a photo copy of posting order of Sanjay Sinha, one of the fake appointees, was produced which was issued under the signature of Sri V. R. Singh. From the face of it, it appears to be passed on forged appointment letter. There was no code number relating to the posting order and a trainee is not given Category-IV whereas this fake appointee, Sanjay Kumar Sinha was posted in Cat. IV. He has further said that in course of his enquiry he went to Ekra Workshop and he demanded the papers relating to the appointment of Sanjay Sinha and from the photograph of Identity Card it appears that the photograph did not bear the signature of any official of Personnel Department nor it was under his signature. Sanjay Sinha was interrogated but he could not reply as to whether he was interviewed and who has given him appointment letter. On that day he further detected three more fake appointees. One of the fake appointees, Sobhnath Jeswara told him that he has not received any appointment letter rather he has received posting order through Manoj Kumar Sinha for which he has taken a sum of Rs. 6000 from him. He has further stated that whenever there is any appointment letter issued from the Personnel Department, the Despatch Clerk record the same in the register and in those letters code number of the Department is mentioned and thereafter it is sent to the Central Despatch Section of concerned Area. There also despatch number is noted. In the appointment letter a photograph of the candidate remains affixed which is taken from the candidate at the time of interview and at the time of interview the concerned officer of Personnel Department put his signature in all the photographs of the candidates and the same is attested by the authority issuing appointment letter. But in case of eleven fake appointees there were no photographs in the posting order nor there was signature of any person in the same. Only the stamp was given in the photograph. However, in course of enquiry he found that in case of posting of Dayasankar Pandey the reference number of Personnel Department which was mentioned there was found to be a number in connection with a letter written to Sri S. G. Sah regarding submission of some return. It was found that none of the appointment letters were issued by the Personnel Department of the Headquarter. He has denied his signature in the appointment letters of the eleven fake appointees. He has further stated that one of the fake appointees Surya Bhusan Prasad had told him that he got appointment with the help of Manoj Kumar Sinha and V. R. Singh after making payment of bribe of Rs. 4000. In cross-examination of this witness it has been elicited that there is standing instruction of BCCL that unless and until the copy of appointment letter is received in the office of the Area Regional Manager from Headquarters any person should not be posted. Besides this copy of appointment letter is given to Personnel Manager and Accounts Manager. Therefore, any letter which is not received through proper channel is required to be verified. The management has examined MW-3—B. G. Dutta, MW-4—N. K. Sinha, MW-5—S. P. Singh and MW-6 M. P. Chatterjee, but in their evidence there is nothing against the concerned workman, MW-7—M. Prasad is Finance Manager. He was appointed as Enquiry Officer to enquire genuineness of the appointment and posting in respect of eleven persons and in course of enquiry it was found that besides, Sri V. R. Singh, Dy. Personnel Manager, Bhagaband Area this workman, Sri T. C. Prasad, Clerk in the Personnel Manager Secretariat and others were involved in the fake appointment record. He submitted his report. His evidence does not deal elaborately say as to what role was played by this workman. MW-8 is Sri B. S. Prasad, Material Manager but he too had said nothing against the concerned workman. The last witness of the management is MW-9—Sri N. I. Singh who was Personnel Manager at Bhagaband Area No. 7 during the relevant time and from his evidence it appears that this concerned workman, Sri T. C. Prasad was the Dealing Assistant of the Personnel Manager and he has dealt with fake appointment letters. From his evidence it appears that some of the appointment letters were marked to him but those were not produced by the concerned workman before him, rather the same were placed before

Sri V. R. Singh, Dy. Personnel Manager of Bhagaband Area. The concerned workman has not been able to give any explanation as to why the appointment letters which were marked to Personnel Manager were not put up before him, rather without his endorsement to Dy. Personnel Manager the same were put up before the Dy. Personnel Manager and from whose end the internal posting order was issued.

11. The report of the Enquiry Officer has elaborately dealt with the role played by the concerned workman and the finding of the Enquiry Officer does not appear to be perverse and that the findings are reasonable and justified on the basis of materials available on record. The concerned workman has taken a plea that whatever action was taken by him was taken under the order of Sri V. R. Singh, Dy. Personnel Manager under whom he was working and was supposed to carry out his order.

12. From the materials on record it appears that the concerned workman was working for more than six years in that capacity and therefore he is expected to be conversant with the workings of the Personnel Department, but it appears that he has dealt with the fake appointment orders which were directly received through the candidates or through one Manoj Kumar Sinha whereas there was Standing Order that unless the copy of appointment letter is received through Central Despatch Section of the General Manager of the area no action was to be taken on the basis of personal copy of the candidate. But it appears that only personal copies of the candidates were produced by that order not through proper channel; rather, by some extraneous channel and on that basis internal orders of posting have been issued. There were several lacunae from which an experienced Dealing Assistant could have detected the forgery had he not been connived with the fake appointments. Therefore, in my opinion, the finding of the Enquiry Officer is properly justified.

13. Now, coming to the punishment it appears that Sri N. L. Singh, Personnel Manager of the Area has stated that prior to this incident there was no adverse complaint against the concerned workman, that means his past record was clean. Furthermore from the material on record it appears that Sri V. R. Singh Dy. Personnel Manager was very much instrumental in getting the fake appointees posted in the respective areas and therefore he had talked to the concerned persons and he has prevailed copy to let the fake appointees join. Since he was the superior officer of the concerned workman, Sri T. C. Prasad, the concerned workman was duty bound to obey him and therefore the possibility of he being dominated by Sri V. R. Singh, Deputy Personnel Manager cannot be ruled out. Therefore, in my opinion, the punishment should be awarded to him having regard to the aforesaid circumstances and his past record which was clean. Therefore, in my opinion, the extreme punishment awarded by the management does not appear to be justified, specially when the Personnel Manager Sri N. L. Singh has himself admitted that some of the fake appointment letters were endorsed by the General Manager of the Area to him and he too has endorsed some of them to Sri V. R. Singh, Dy. Personnel Manager, which suggest that he could not detect those fake appointment letters to be fake, rather he thought the same to be genuine one. Thus, the Personnel Manager itself was misled. The misconduct of this concerned workman if we consider from that angle of view then it can be said that he might not have known about the forgery and therefore in that view of matter he deserves to be reinstated. But in spite of that one cannot give him a clean chit in view of the fact that as a Dealing Assistant who has no burden of work should have carefully scrutinise and should not have placed for order without waiting for the official copy of the appointment letters through Central Despatch Section. Therefore on that score it appears that he has connived in the fake appointments. Therefore, in my opinion, he should be reinstated with 50 per cent of full back wages from the date of his dismissal from service, which will be sufficient punishment for the misconduct committed by him.

14. In the result I render this award that the concerned workman, Sri T. C. Prasad, Establishment Clerk, should be reinstated in service with 50 per cent of full back wages from the date of his dismissal. The management is directed to reinstate the concerned workman, Sri T. C. Prasad, Establishment Clerk, in service with 50 per cent of full back wages from the date of his dismissal i.e. 28-10-1988 with continuity of service within two months from the date of publication of the award.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 7 अक्टूबर, 1999

का.आ. 3189 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में. बी.सी.सी.एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. II) धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-10-99 को प्राप्त हुआ था।

[सं. एल-20012/368/94-आई आर (सी-I)  
बी.एस.ए.एस.पी. राजू, डेस्क अधिकारी

New Delhi, the 7th October, 1999

S.O. 3189.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. II), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 7-10-99.

[No. L-20012/368/94-IR(C-I)]  
V.S.A.S.P. RAJU, Desk Officer

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL (NO. 2) AT DHANBAD

## PRESENT :

Shri B. B. Chatterjee, Presiding Officer.  
In the matter of an Industrial Dispute under Section 10(1)(d)

of the I.D. Act, 1947

REFERENCE NO. 113 OF 1995

## PARTIES :

Employers in relation to the management of Moonidih  
Colliery of M/s. BCCL and their workmen.

## APPEARANCES :

On behalf of the workmen : None.

On behalf of the employers : one.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 29th September, 1999

## AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/368/94-I.R. (Coal-I), dated, the 5th April, 1995.

## SCHEDULE

"Whether the action of the management of Moonidih Colliery is justified in dismissing Shri Panchu Sethi T. No. 1793 ? If not, to what relief is the workman entitled ?"

2. In this reference none of the parties turned before this Tribunal nor took any steps. The reference is pending since 1995 and it is of no use to drag the same any more for taking steps by the parties. Under such circumstances, a 'No dispute' Award is being rendered and the reference is disposed

of on 'No dispute' Award basis on the presumption of non-existence of any industrial dispute between the parties presently.

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 7 अक्टूबर, 1999

का.आ. 3190 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में. बी.सी.सी.एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. II) धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-10-99 को प्राप्त हुआ था।

[सं. एल-20012/420/94-आई आर (सी-I)]

बी.एस.ए.एस.पी. राजू, डेस्क अधिकारी

New Delhi, the 7th October, 1999

S.O. 3190.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. II), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 7-10-99.

[No. L-20012/420/94-IR(C-I)]  
V.S.A.S.P. RAJU, Desk Officer

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL (NO. 2) AT DHANBAD

## PRESENT :

Shri B. B. Chatterjee, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d)  
of the I.D. Act, 1947

REFERENCE NO. 156 OF 1995

## PARTIES :

Employers in relation to the Bhagaband Colliery of M/s.  
BCCL and their workmen.

## APPEARANCES :

On behalf of the workmen : None.

On behalf of the employers : None.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 27th September, 1999

## AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/420/94-I.R. (Coal-I), dated, the 1st November, 1995.

## SCHEDULE

"Whether the action of the management of Bhagaband Colliery under P.B. Area of M/s. BCCL in not regularising as Trammar, S/Shri Banaraj Gope and Mahadeo Singh (both Miner/Loader) is justified ? If not, to what relief the workmen are entitled ?"

2. In this reference none of the parties appeared before this Tribunal nor took any steps. The reference is pending since them. The reference is pending since 1995 and it is of no use to drag the same any more. Under such circumstances, a

'No dispute' Award is being rendered and the reference is disposed of on 'No dispute' Award basis on the presumption of non-existence of any industrial dispute between the parties presently.

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 7 अक्टूबर, 1999

का.आ. 3191:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार मै. बी.सो.सी.एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. II), धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-10-99 को प्राप्त हुआ था।

[सं. एल-20012/114/95-आई आर (सी-I)]

बी.एस.ए.एस.पी. राजू, डेस्क अधिकारी

New Delhi, the 7th October, 1999

S.O. 3191.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. II) Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 7-10-99.

[No. L-20012/114/95-IR(C-I)]

V.S.A.S.P. RAJU, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. B. Chatterjee, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 60 OF 1996

PARTIES :

Employers in relation to the management of Lodna

Colliery of M/s. B.C.C.L. and their workmen.

APPEARANCES :

On behalf of the workmen : None.

On behalf of the employers : None.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 29th September, 1999

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/114/95-I.R. (Coal-I), dated, the 4th April, 1996.

SCHEDULE

"Whether the action of the management of Lodna Colliery of M/s. BCCL in denial to provide employment to the dependent of late Umesh Lal Modak, Haulage Operator is justified ? If not, to what relief the concerned workman is entitled ?"

2. In this reference none of the parties appeared before this Tribunal nor took any steps although notices were served upon them. This reference is pending since 1996 and it is of no use to drag the same year after year for taking steps by the parties. Under such circumstances, no 'No dispute' Award is being rendered and the reference is disposed of on 'No dispute' Award basis on the presumption of non-existence of any industrial dispute between the parties presently.

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 7 अक्टूबर, 1999

का.आ. 3192:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार मै. बी.सो.सी.एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. II), धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-10-99 को प्राप्त हुआ था।

[सं. एल-20012/161/94-आई आर (सी-I)]

बी.एस.ए.एस.पी. राजू, डेस्क अधिकारी

New Delhi, the 7th October, 1999

S.O. 3192.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. II) Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 7-10-99.

[No. L-20012/161/94-IR(C-I)]

V.S.A.S.P. RAJU, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. B. Chatterjee, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 55 OF 1995

PARTIES :

Employers in relation to the management of Sudamdih Incline Mine of M/s. B.C.C.L. and their workmen.

APPEARANCES :

On behalf of the workmen : None.

On behalf of the employers : None.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 28th September, 1999

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/161/94-I.R. (Coal-I), dated, the 3rd April, 1995.

SCHEDULE

"Whether the action of the Dy. Chief of Mining Engineer, Sudamdih Incline Mine of M/s. BCCL in superannuating Shri Kailash Ram, w.e.f. 31-3-92 is justified ? If not, to what relief the concerned workman is entitled to?"

2. In this reference none of the parties turned up nor took any steps although notices were issued to them. The reference is pending since 1995 and it is of no use to drag the same any more for taking steps by the parties. Under such circumstances, a 'No dispute' Award is being rendered and the reference is disposed of on 'No dispute' Award basis on the presumption of non-existence of any industrial dispute between the parties presently.

B. B. CHATTERJEE, Presiding Officer



नई दिल्ली, 7 अक्टूबर, 1999

का.अ. 3193.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में, बी.सी.सी.एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. II), धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-10-99 को प्राप्त हुआ था।

[सं. एल-20012/186/95-आई आर (सी-I)]

वी.एस.ए.एस.पी. राजू, डेस्क अधिकारी

New Delhi, the 7th October, 1999

S.O. 3193.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. II), Dhanbad as shown in the Annexure in the Industrial dispute between the employers in relation to the management of M/s. B.C.C.L. and their workman, which was received by the Central Government on 6-10-99.

[No. L-20012/186/95-IR(C-I)]

V. S. A. S. P. RAJU, Desk Officer

## ANNEXURE

## BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

## PRESENT:

Shri B. B. Chatterjee, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 110 OF 1996

## PARTIES:

Employers in relation to the management of Govindpur Area of M/s. B.C.C.L. and their workmen.

## APPEARANCES:

On behalf of the workmen : None.

On behalf of the employers : None.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 21st September, 1999

## AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/186/95-IR. (C-I), dated, the 19th September, 1996.

## SCHEDULE

"Whether the action of the Govindpur Area No. III of M/s. B.C.C.L. Sonardih in refusing to protect the wages of Smt Parmeshwari Kamin and 13 others (as per list enclosed) Shala Picker is justified? If not, to what relief are the concerned workmen entitled?"

2. In this reference none of the parties appeared before this Tribunal nor took any steps although notices were served upon them. The reference is pending since 1996 and it is of no use to drag the same any more for taking steps by the parties. Under such circumstances a 'No dispute' Award is being rendered and the reference is disposed of on 'No dispute' Award basis on the presumption of non-existence of any industrial dispute between the parties presently.

B. B. CHATTERJEE, Presiding Officer

## LIST OF WORKMEN

1. Shri Parmeshwari Kamin.
2. Ram Dulari Kamin.
3. Megha Kamin.
4. Basu Kamin.
5. Shanti Kamin.

6. Jethi Kamin.
7. Basanti Kamin.
8. Ram Pyari Kamin No. 1
9. Rukwa Kamin.
10. Lagani Kamin No. 1
11. Muneshwari Kamin No. 1.
12. Kunti Kamin.
13. Bhatua Bhwia.
14. Lakhia Kamin.

नई दिल्ली, 7 अक्टूबर, 1999

का.अ. 3194.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में, बी.सी.सी.एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. I) धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-10-99 को प्राप्त हुआ था।

[सं. एल-20012/12/92-आई आर (सी-I)]

वी.एस.ए.एस.पी. राजू, डेस्क अधिकारी

New Delhi, the 7th October, 1999

S.O. 3194.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. I) Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C.L. and their workman, which was received by the Central Government on 7-10-99.

[No. L-20012/12/92-IR(C-I)]

V.S.A.S.P. RAJU, Desk Officer

## ANNEXURE

## BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. I) AT DHANBAD

In the matter of a reference under Section 10(1)(d)(2A) of the Industrial Disputes Act, 1947

Reference No. 100 of 1992

## PARTIES:

Employers in relation to the management of Bastacolla Area IX of M/s. B.C.C. Ltd.

## AND

Their Workmen.

## PRESENT:

Shri Sarju Prasad, Presiding Officer.

## APPEARANCES:

For the Employers : Shri B. Joshi, Advocate.

For the Workmen : None.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 28th September, 1999

## AWARD

By Order No. L-20012(12)/92-IR, (Coal-I) dated 15-9-92 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-sec. (1) sub-sec. (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

"Whether the action of the management of Bastacolla Colliery under Bastacolla Area No. IX of M/s. B.C.C. Ltd. P.O. Jharra, Dist. Dhanbad in dismissing Shri Basant Bhuiya, Wagon Loader w.e.f. 13-4-89 is justified? If not, to what relief the workman is entitled?"

2. The order of reference was received in this Tribunal on 28-9-92. After notice both the parties filed their respective written statement and rejoinders. Thereafter the reference was fixed for hearing. But neither the sponsoring union nor the concerned workman is appearing before this Tribunal to take further step in this case despite several adjournments.

given to them. It, therefore, appears that neither the sponsoring union nor the concerned workman is interested to contest this dispute.

3. In such circumstances I render a 'No Dispute' Award in the present reference case.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 7 अक्टूबर, 1999

का.आ. 3195 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै० बी.सी.सी.एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं० II) धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-10-99 को प्राप्त हुआ था।

[सं. एल-20012/42/94-आई आर (सी-I)]

वी.एस.ए.एस.पी. राजू, डैस्क अधिकारी

New Delhi, the 7th October, 1999

S.O. 3195.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. II) Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 7-10-1999.

[No. L-20012/42/94-IR(C-I)]

V.S.A.S.P. RAJU, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. B. Chatterjee, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 45 OF 1995

PARTIES :

Employers in relation to the management of Govindpur Colliery of M/s. B.C.C.L. and their workmen.

APPEARANCES :

On behalf of the workmen : None.

On behalf of the employers : None.

STATE : Bihar.

INDUSTRY : Coal.

Dated Dhanbad, the 28th September, 1999

#### AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/42/94-IR. (Coal-I), dated, the 1st March, 1995.

#### SCHEDULE

"Whether the action of the General Manager, Govindpur Area No. III of M/s BCCL, P.O. Sonardih, (Dhanbad) in denying employment to Shri Kartik Das S/o Late Rameshwar Chamar, ex-Miner/Loader who died while in harness is justified? If not, to what relief is the dependent entitled?"

2. In this reference none of the parties turned up before this Tribunal nor took any steps although notices were served upon them. The reference is pending since early part of 1995

and it is of no use to drag the same any more. Under such circumstances, a 'No dispute' Award is being rendered and the reference is disposed of on 'No dispute' Award basis on the presumption of non-existence of any industrial dispute between the parties presently.

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 7 अक्टूबर, 1999

का०आ० 3196 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै० बी०सी०सी०एल० के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं० 2) धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-10-99 को प्राप्त हुआ था।

[सं० एल-20012/86/94-आई आर (सी-I)]

बी०एस०ए०एस०पी० राजू, डैस्क अधिकारी

New Delhi, the 7th October, 1999

S.O. 3196.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. II) Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 7-10-99.

[No. L-20012/86/94-IR(C-I)]

V.S.A.S.P. RAJU, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. B. Chatterjee, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 6 OF 1996

PARTIES :

Employers in relation to the management of South Govindpur Colliery of M/s. BCCL and their workmen.

APPEARANCES :

On behalf of the workmen : None.

On behalf of the employers : None.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 27th September, 1999

#### AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/86/94-IR. (Coal-I), dated, the 29th December, 1995.

#### SCHEDULE

"Whether the demand of the union for regularisation as E. P. Electrician, Gr. 'E' with payment of difference of wages w.e.f. 13-6-90 to Shri Satya Deo Singh and Chand Singh is justified? If so, to what relief these workmen entitled?"

2. In this reference none of the parties turned up before this Tribunal nor took any steps although notices were served upon them. The reference is pending since later part of 1995 and it is of no use to drag the same any more. Under such circumstances a 'No dispute' Award is being rendered and the reference is disposed of on 'no dispute' Award basis on the presumption of non-existence of any industrial dispute between the parties presently.

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 7 अक्टूबर, 1999

कां०आ० 3197.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबन्धतंत्र के संबद्ध नियोक्तों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण 1, मुम्बई के पचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-10-99 प्राप्त हुआ था।

[सं० एल-12012/395/94-आई आर (बी-II)]

बी०एम० डेविड, अवसर सचिव

New Delhi, the 7th October, 1999

S.O. 3197.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-I, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 06-10-99.

[No. L-12012/395/94-IR(B-II)]

B. M. DAVID, Under Secy.

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO. 1,  
MUMBAI

## PRESENT :

Shri Justice C. V. Govardhan, Presiding Officer.  
REFERENCE NO. CGIT-21 OF 1995

## PARTIES :

Employers in relation to the management of  
Punjab National Bank

## AND

Their Workmen

## APPEARANCES :

For the Management : Shri Kantharia, Advocate.  
For the Workmen : Shri Anchan.

## STATE : Maharashtra

Mumbai, dated the 21st day of September, 1999

## AWARD

1. The Central Government by its order dt. 30th May 1995, has referred the following dispute between the employees in relation to the management of Punjab National Bank and their workmen for adjudication by this Tribunal :

"Whether the action of the management of Punjab National Bank, Pune in imposing the penalty of 'warning' on Shri S. S. Bhoga Shetty, Cashier-in-Charge; Sri H. M. Sawant, Clerk/Typist and Shri D. B. Khandekar, Head Cashier and that of stoppage of two increments on Sri U. G. Magar, Peon is legal

and justified ? If not, what relief are the aforesaid workmen entitled to?"

2. The averments in the Claim statement are as follows: Their was an All India agitation by the Bank Employees on 27-11-87. On that day in Pune the workmen and a section of the Officers working at the Pune Region of the Bank held demonstration before the Regional Office at Pune and also before the Clearing House situated in State Bank of India centre as part of the programme for observance of All India one day strike on 27-11-87. On that day the management issued a charge sheet to the active officials of the union namely, Shri S. S. Bhoga Shetty, Sri H. M. Sawant, Shri D. B. Khandekar and Sri U. G. Magar, of having committed certain misconduct on 27-11-87. This conduct on the part of the Bank and the discrimination indulged by them vitiates the enquiry held against the above employees and renders the punishments as vindictive. Mr. Bhoga Shetty, Shri Khandekar and Shri H. M. Sawant have been imposed with the punishment of 'warning' while Mr. Magar was imposed with the punishment of stoppage of two increments since he was the union Secretary-Managing Committee member, an official of the union working in Khapoli Branch, Pune Region. The charge sheet issued on 28-1-88 to Shri Shetty, Sawant and Khandekar are same. The allegation is that they did not behave properly during the demonstration held by the employees on 27-11-87. It was alleged that in order to stop the Bank official from participating in the Clearing, these people and other colleagues assembled before the State Bank of India Clearing centre and stopped the Officer namely; Mr. Manimala from entering the SBI Clearing centre and gheraoed him and shouted slogans in abusive manner. It was alleged that Shri Manimala was forced to remain outside the Clearing centre. It was also alleged that at about 11-45 a.m. of that day when Mr. Vyas, an Officer of the Bank came out of the Clearing centre, he was gheraoed by these workmen and their colleagues and filthy language was used against him. It is further alleged that these workmen and their colleagues demoralised Shri Vyas by forcibly putting necklace of bangles around his neck and hands. It is alleged that the workman and other colleagues brought Mr. Vyas in front of the Legal Manager Office and continued the demonstration and gheraoed Mr. Vyas and the Senior Manager, Mr. Purohit who came there at about 1-00 p.m. was not allowed to enter the Regional Manager's Office for some time and he was also gheraoed for some time until Mr. Purohit and the Legal Manager forced their entry into the Regional Office. The Bank issued charge sheet listed in para 19.5(e) and 19.5(j) of the Bipartite settlement. The Bank had asked for explanation from the workmen and they have submitted their explanation. It was not acceptable to the Bank. An enquiry was conducted by Mr. M. L. Kapoor and he has submitted his findings to the Disciplinary Authority on 25-6-91. Agreeing with the findings of the Enquiry Officer, the Disciplinary Authority proposed the punishment of 'warning' to the workmen and after giving a hearing to all of them, by its letter dt. 31-8-91, he had imposed the punishment of warning to the above three workmen. An appeal preferred by the workmen were also dismissed by the Zonal Manager. The findings of the Enquiry Officer are contrary to the evidence

and is perverse. The Enquiry Officer is not competent to hold the enquiry.

3. With regard to the fourth employee Mr. Magar is concerned it was alleged by the management in the charge sheet issued to him that on 24-7-87 he threatened Mr. Kohad, Officer with dire consequences for asking him to perform normal duties of the Branch and on 30-7-87 when instructed by Mr. Kohad to accompany Shri A. G. Khabade for bringing cash from another bank, he refused to comply with the oral instruction of Mr. Kohad. It was also alleged that he was found instigating members of the staff to disobey the instructions given to them, that he was doing Union work during working hours and that he had abused and shouted the Bank officials in front of the customers. It was further alleged that on 27-11-87 when he was on strike he alongwith other employees of the Bank went to the SBI Clearing centre and prevented Mr. Manimala from entering the said premises, gheraoed him and started shouting slogans in abusive language. The management further alleged that when Mr. Vyas came out of the Clearing centre he was gheraoed by the workman and his colleagues and Mr. Vyas was kept under gherao for some time, during which period slogans using filthy languages were shouted and Mr. Vyas was demoralised by putting a necklace of bagles around his neck and hands. It was further alleged that Mr. Vyas was brought by the employee and his colleagues to the Regional Manager's Office and demonstration and gherao of Mr. Vyas continued for some more time. It is also alleged that at about 1.00 p.m. when the Regional Manager, Pune and the Senior Manager, Mr. Purohit came to the Regional Managers Office they were also not allowed to enter the Regional Managers Office premises for some time and they were also gheraoed for some time until the Regional Manager and Mr. Purohit forced their entry into the Regional Office. Based on the said allegation the workman Mr. Magar was charge sheeted of having committed the misconduct enumerated in para 19.5(e) and 19.5(j) of the First Bipartite settlement dt. 19-11-66. The workman denied the charge issued to him. The enquiry was held against him by an Officer who is not competent to hold the enquiry and the finding given by the Enquiry Officer is perverse. The Bank has discriminated the employee herein when all the officials and other employees of the Bank were on strike. The four workmen have been vindictively dealt with and punished for the union activities and the punishment imposed on them deserves to be vacated and hence the dispute.

4. The Bank in its written statement contends as follows : Mr. Bhoga Shetty, Mr. Sawant and Mr. Khandekar were charge sheeted for acts of gross misconduct committed by them on 27-11-87. Mr. Magar was charge sheeted for the act of gross misconduct committed by him on various dates and on 27-11-88, after the issuance of the charge sheet the enquiry was held properly following principles of natural justice in accordance with the Bipartite Settlement. The union has not challenged the fairness and legality of the enquiry. Based on the evidence recorded in the enquiry proceedings the Enquiry Officer has come to the conclusion and found the workmen guilty of the charges framed against them. At the same time the

Enquiry Officer exonerated Mr. Magar from few of the charges as not proved. The Disciplinary Authority independently applied his mind on the evidence recorded in the enquiry and the findings of the Enquiry Officer. The Disciplinary Authority took a lenient view and awarded the punishment of 'warning' to Mr. Shetty, Mr. Sawant and Mr. Khandekar and the punishment of stoppage of two increments to Mr. Magar. The appeal preferred by them was dismissed by the appellant authority who had independently applied his mind. The allegation that the Bank had chosen to charge sheet only active officials of the union is misconceived and untenable. Mr. Vyas and Mr. Manimala were deputed to attend the Clearing work at the clearing house situated at SBI Centre. Mr. Vyas was gheraoed and humiliated by garlanding him with a necklace of bagles. Manimala was also gheraoed and made to stand in the centre of the crowd alongwith Mr. Vyas; but before he could be humiliated in the manner Mr. Vyas was humiliated, he slipped away. The workmen proceeded for demonstration to the Regional Office and obstructed the entry of the Regional Manager and the Senior Manager Mr. Purohit as well as Mr. Vyas from entering the Regional Office. It is only in the above circumstances, they were charge sheeted for the above misconduct and Mr. Magar was charge sheeted for other acts of misconduct also. The allegation that the Bank has discriminated against these workmen is false. The allegation that the findings of the Enquiry Officer are contrary to the evidence is also false.

5. Mr. Magar was charge sheeted for acts of misconduct set out in the charge sheet. He refused to obey the oral instructions of his superiors. He even refused to sign the written instructions, which were although in English, but explained to him in Marathi. The workman understands English but in order to avoid work and disobey the orders of the superiors, he has made a false plea that he does not understand English. The office order was explained to Mr. Magar in Marathi, yet he refused to sign the order and refused to obey the same. The findings of the Enquiry Officer is well founded. The Disciplinary Authority independently applied his mind to the Enquiry Officers findings and has concurred with the findings of the Enquiry Officer. A lenient view was taken and a lesser punishment was imposed on the workmen. The allegation that imposing the punishment is vindictive in nature is not correct. The workmen are not entitled to any relief and the reference may be rejected.

6. The Union has filed a rejoinder reiterating their earlier stand.

7. The point for consideration is whether the imposing of the penalty of warning to Mr. Bhoga Shetty, Mr. Sawant and Mr. Khandekar and stoppage of two increments on Mr. Magar is legal and justified. If not, to what relief these workmen are entitled?

The Point :

Three of the workmen herein are Officers in the Punjab National Bank while the last one Mr. Magar is a peon. The above four workmen were charge sheeted by the Management of the Bank for having committed the misconduct of preventing Mr. Manimala from entering into the SBI Clearing Office on

27-11-87 and gheraoing Mr. Vyas, another Officer of the Bank when he came out of the clearing house of the SBI on the same date and both these Officers namely Mr. Vyas and Mr. Manimala were abused with filthy languages. The charge sheet further states that Mr. Vyas was humiliated by attempting to put bangles on his hands and when they could not do it, garlanded him with the garland of bangles in his neck. According to the management these four employees took active part in these behaviour. It is also their case that Mr. Manimala who was a witness to the garlanding of Mr. Vyas by bangles slipped away apprehending that he will also be meted with the same treatment. The management has further stated that the gherao was continued in the office of the Regional Manager also and Mr. Vyas, Regional Manager and Mr. Purohit, Senior Manager were prevented from entering into the Regional Managers Office and it is only with difficulty they entered the premises. As regards Mr. Magar is concerned the allegation is that he used to disobey the orders of the Officers and in particular he disobeyed the order of one Mr. Vijay Kohad to accompany the Bank's Cashier who was deputed to bring cash and similarly on 30th July, 1987, also he refused to obey the order of Mr. Kohad inspite of the instruction being given to him in writing on the ground that he does not know English even though he knows English. The workman having denied the charges against them, an enquiry was ordered to be held by the Regional Manager of Bombay and he has also held an enquiry observing all the principles of natural justice. In so far as the manner in which the enquiry is held, the workmen had not pleaded that the enquiry was not fair and proper. They have not challenged the findings of the Enquiry Officer on the ground that the enquiry is not conducted fairly and properly; but they have contended that the Legal Manager, Mr. Kapoor is not competent to hold the enquiry since he does not belong to Pune Region and he is an Officer of the Bombay Region. A circular dt. 30-5-78 has been relied by the workmen in which it is stated that in respect of the employees of the Zonal-Regional Officers and exceptionally from large branches and divisions and department at Head Office, respective Managers are authorised to issue and serve charge sheet and also to suspend if necessary. According to the workmen the charge sheeted employees belong to the Pune Region and the Enquiry Officer is the Zonal Manager of Bombay and holding an enquiry by the said Manager Mr. Kapoor is not proper and on that ground the enquiry is vitiated. But it is the case of the management that as there was no sufficient trained hands available in Pune Region to hold enquiry against the charge sheeted employees the Regional Manager of Bombay Region has been appointed as the Enquiry Officer and that too with the permission of the Personnel Department as per the Bipartite Settlement and therefore, the workmen cannot have any grievance on the competency of the Enquiry Officer namely Mr. Kapoor. They have also relied upon the copy of the Bipartite Settlement which provides for disciplinary enquiries. Clause of the Settlement is as follows :

"The Zonal Manager has been empowered to appoint any Officer from his Zone besides specified above to hold the enquiry in respect of the workmen, Staff in terms of the Bipartite Settlement irrespective of the region of their posting" Clause 6 of the same reads as follows :

"The Chief Personnel has been empowered to authorise any Officer besides specified above to hold enquiry against the workmen, Staff in terms of the Bipartite Settlement irrespective of the Zone-Division of their posting".

The above terms of the Bipartite Settlement which provides for disciplinary enquiry against the delinquent employee makes it abundantly clear that the circular relied by the workmen dt. 13-4-87 is only a guideline as to who could issue a charge sheet, suspend a worker or order appointment of Enquiry Officers. There is no embargo in the above circular that none other persons other than these mentioned in the above circular could be appointed as an Enquiry Officer. On the other hand the clause 2(v) (vi) which I have referred above of the order of the General Manager (Admn.) issued in pursuance of the Bipartite Settlement makes it abundantly clear that the Zonal Manager have been empowered to appoint Officers of other Regions also as Enquiry Officers and the Chief Personnel of the Personnel Department is empowered to authorise any Officer to hold enquiry in terms of the Bipartite Settlement irrespective of the Zone-Division of their posting. In the case on hand the Zonal Manager has appointed Mr. Kapoor as the Enquiry Officer after getting approval from the Chief Personnel of the Personnel Deptt. Therefore, the contention of the workmen that the enquiry has not been conducted by an Officer of the Pune Region and the Enquiry Officer is not competent to hold an enquiry against them is without merits.

8. We have already seen that the workmen have not challenged the fairness of the enquiry. Their only contention is that the findings of the Enquiry Officer are not based on evidence and they are perverse. Now let us see whether this contention of the workmen is with merits.

As far as the occurrence dt. 27-11-87 is concerned we have got two witnesses examined before the Enquiry Officer and they are Mr. Manimala and Mr. Vyas. Mr. Manimala has stated in the enquiry against Mr. Shetty that he was deputed for clearing and that when he went to State Bank of India Clearing House, employee of his bank who had already collected there, stopped him from entering the Clearing House and he was asked to wait till Mr. Vyas came out and that when Mr. Vyas came out at about 11.30 a.m. from the Clearing House, both of them were made to stand in the centre of the crowd and slogans were shouted. He has specifically stated that he can identify Mr. Shetty, Kulkarni, Sawant, Mr. Khandekar and Mr. Magar. At a subsequent stage he has stated that some people tried to make Mr. Vyas wear bangles first on his hands which Mr. Vyas resisted and thereafter there was lot of pushing around and a chain of bangles were being forced on him and during this melee he apprehended that a similar action will be

taken against him also and slowly slipped out of the crowd and went to the Regional Office. At a later stage, he has further stated that when the Regional Manager, Mr. Purohit came to the Regional Managers office the employees who had already assembled in front of the Regional Manager's office with Mr. Vyas, the Legal Manager and Mr. Purohit were not allowed to go inside the office and it was after some argument and persuasion Mr. Purohit and Mr. Vyas were allowed to get in. In the enquiry against Mr. Sawant, Mr. Manimala has stated that he can recollect the names of Mr. Shetty and Kulkarni as the persons who have stopped him from entering inside the Clearing centre and he had also learnt the name of some more people later including Mr. Sawant. To a specific question as to whether he recollects the face of anybody from the mob when a chain of bangles was put on Mr. Vyas, Mr. Manimala has stated that he recollected only faces of some people whom he had already mentioned. Similarly, in the enquiry against Mr. Kandeekar also Mr. Mani has stated that he recollected the face of Mr. Kandeekar as one of the persons in the melee. As far as Mr. Vyas is concerned he has stated in his evidence that when he came out of the clearing house, a mob of 100 people surrounded him and asked him to stand in the mob and on denying to do so they forced him to stand in the mob and gheraoed him and stood around himself and started shouting slogans. It is also stated by Mr. Vyas that Mr. Manimala was also brought and asked to stand beside him and they started shouting slogans against the officials. Mr. Vyas has further stated that he was keeping his hands in his pocket and some of the people tried to take out of his hands out of the pocket so that they can put bangles around his hands and when he resisted they started shouting against him and some people from his back side put around his neck a garland of bangles. It is also stated by Mr. Vyas that on reaching the Regional Office they asked him to stand in the corner in front of the Regional Office and shouted slogans and when the Regional Manager and the Senior Manager, Purohit came there, they were also obstructed and with the help of the Regional Manager, he entered the office. With regard to the identity of the persons who had obstructed him, he has stated that apart from Mr. Shetty, Mr. Kandeekar, Mr. Sawant, Mr. Magar, Mr. Kulkarni and Mr. Gaikwad are the few whose names he remembered. Mr. Vyas has repeated this evidence in the enquiry held against the other employees also.

As far as the employee Mr. Magar is concerned, Mr. Vijay Kohad, who was examined as MW-1 before the Enquiry Officer has stated that on 24-7-87 the office order was issued instructing Mr. Magar to accompany one of the Bank's Clerk-Cashier for bringing cash from other Bank and he had signed the office order and Mr. Magar refused to sign the same by saying that he does not want to accompany the concerned Clerk-cum-Cashier for bringing Cash from other Bank. At a later stage, the witness has stated that on 30-7-87 he issued an Office order instructing the Cashier to go to the local Bank to collect cash and also instructed Mr. Magar who is a Cash Peon to go alongwith the Clerk to bring Cash. Mr. Magar refused to sign the Office Order saying that he would not go to collect the cash alongwith the Cashier. The evi-

dence of Mr. Vijay shows that the employee has refused to obey the orders of his Superiors not only when it was given to him orally but also in writing. As far as the occurrence dt. 27-11-87 is concerned Mr. Vyas has stated that Mr. Magar was one of those who assembled before the Clearance House and prevented him and gheraoed him. MW-3 Mr. Manimala has stated that when he was made to wait for Mr. Vyas, Mr. Magar asked him certain details regarding his bio-data and threatened him with dire consequences for not having gone on strike and told him "Tumhe Mahatashtra mein Rehana high ya Nahin" and he took active part in pushing him around and forcing bangles on Mr. Vyas. It may be noted at this juncture that the Enquiry Officer has held that the certain charges framed against Mr. Magar like doing union work in the office has not been proved and it goes to show that the findings of the Enquiry Officer does not suffer any infirmity. The Disciplinary Authority who has gone through the enquiry proceedings and findings of the Enquiry Officer has concurred with the findings of the Enquiry Officer and after giving a show cause notice with regard to the proposed punishment, punishment has been given. It is thus seen that in the enquiries held separately against the charge sheeted employees, the part played by them on the date of occurrence i.e. 27-11-87 has been spoken by the witness examined on behalf of the management. Even though there may be more than 100 persons in the crowd dt. 27-11-87 except these four employees no other Officer or staff of the Bank is said to have played any vital role in the occurrence. Therefore, the contention of the workmen that there is discrimination against these workmen alone cannot be accepted, on the ground that the others are only passive observers.

An attempt has been made during cross-examination to show that Mr. Manimala was not present on 27-11-87; but this attempt has to be rejected since the evidence of Mr. Manimala is corroborated with the evidence of Mr. Vyas who had suffered humiliation in the hands of the workers. A report of the Enquiry Officer could be termed as a perverse one only if the finding given by the Enquiry Officer could not be given by any other reasonable person and the finding given is not based on legal evidence placed before the Enquiry Officer. The evidence placed before the Enquiry Officer does not give room to come to such a conclusion. Their evidence is corroborative in material particulars. In the above circumstances, the version of the workers that the findings of the Enquiry Officer is a perverse one cannot be accepted. It was alleged that the punishment imposed on the workmen Mr. Shetty, Mr. Kandeekar and Mr. Sawant is likely to cause financial loss to them; but the punishment imposed on them being 'warning', no financial loss will be caused. Therefore, the punishment given to them cannot be said to be unjustified. In so far as Mr. Magar is concerned it has been established that he has been disobeying oral orders of his Superiors on several occasions and he had also taken active part in the incidence that took place on 27-11-87 in front of the Clearing house of the State Bank of India and the Legal Manager's Office and he has been given a punishment of stoppage of two increments. It also cannot be said to be an unjustified one. Considering all

these aspects I hold on the point that the action of the management of Punjab National Bank in imposing the penalty of 'warning' to Mr. Shetty, Mr. Sawant and Mr. Khandekar and stoppage of two increments on Mr. Magar is legal and justified and the above workmen are therefore, not entitled to any relief.

In the result, an award is passed holding that the action taken by the Management of Punjab National Bank in imposing the penalty of 'warning' to Mr. Shetty, Mr. Sawant and Mr. Khandekar and stoppage of two increments on Mr. Magar is legal and justified and the above workmen are not entitled to any relief.

An award is passed accordingly.

C. V. GOVARDHAN, Presiding Officer

नई दिल्ली, 7 अक्टूबर, 1999

कां०आ० 3193:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार देना बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अन्वेष में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बैंगलोर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 06-10-99 को प्राप्त हुआ था।

[सं० एल-12012/184/95-आई आर (बी-II)]

वी०एम० डेविड, अवर सचिव

New Delhi, the 7th October, 1999

S.O. 3198.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Dena Bank and their workman, which was received by the Central Government on 6-10-99.

[No. L-12012/184/95-JR(B-II)]

B. M. DAVID, Under Secy.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT, BANGALORE

DATED : 28-9-1999

PRESENT :

Justice R. Ramakrishna, Presiding Officer.

C.R. No. 128/97

I PARTY :

Dena Bank Staff Union,  
represented by its General Secretary  
C/o Dena Bank,  
No. 71, Millers Road,  
Bangalore-560052

II PARTY :

The Management of M/s.  
Dena Bank, Regional Office,  
represented by its  
Asst. General Manager (Operations)  
71, Millers Road  
Bangalore-560052

#### AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/184/95-JR(B-II) dated 4-3-96 on the following schedule:—

#### SCHEDULE

"Whether the management of Dena Bank, Bangalore is justified in dismissing Shri S. Mahadeva Naik, Cashier, from service w.e.f. 6-1-94? If not, to what relief is the workman entitled?"

2. The concerned workman is S. Mahadeva Naik. He was appointed as a Cashier-cum-Clerk in the year 1979. The Joint Secretary, Dena Bank Staff Union espoused the cause of this workman.

3. The second party having found huge shortage of money when he was working as a Cashier on 7-8-1992 have issued a charge sheet dated 30-10-92 as per Ex. W1. For proper appreciation the allegation of charge is reproduced below :—

- (1) That while working as paying cashier at our Mysore branch on 30-7-1992, you have made an excess payment of Rs. 100 to M/s. Ugra Precision Engineers one of our clients. At the close of that day you have tallied the cash and the excess payment made by you was not reflected in Bank's record. You have also concealed the same by not reporting excess payment to the Branch Manager or Accountant or Officer of your branch.
- (2) That on 7-8-92 when the closing cash was checked, Rs. 73999/96 was found short. You made good the shortage to a tune of Rs. 74,000/- on the same day by procuring self cheque/loose withdrawal slips from few of our staff members and Shri Laxmichand one of our clients and making late payments for 7-8-92 amounting to Rs. 74000/-. Thus an amount of Rs. 74,000/- was adjusted towards the cash shortage late on 7-8-92.
- (3) When you were asked to explain the reasons for shortage of cash, you were unable to give any explanation other than denying that there was no cash shortage on 7-8-92.
- (4) Subsequently, when an exercise was undertaken to tally the denomination of various currencies that were supposed to have been in your possession on 7-8-92, it is



assessed that the cash shortage was to the tune of Rs. 74025.15.

- (5) The foregoing statements suggest that you have handled the cash department in a careless manner which has resulted in huge cash shortage and led to gross irregularities in the cash department.
- (6) The above acts if proved would amount to gross misconduct/minor misconduct in terms of Bipartite Settlement as enumerated hereunder.

4. The above acts were considered to be a gross negligence and the negligence involving the bank in serious loss, neglect of work, negligence in performing duties coming under clause 19.5(j) and (c) of the Bipartite Settlement. Shortly the allegation against this workman is that he has committed an act prejudicial to the interest of the bank and also committed negligence in performing duties.

5. A domestic enquiry was conducted by an officer of the bank. The workman participated in the enquiry. On the assessment of both oral and documentary evidence the enquiry officer gave a finding against the workman. The Disciplinary Authority accepted the finding and after giving a notice of proposed punishment a punishment of dismissal from service was made. An appeal filed by this workman came to be dismissed thereby confirming the order of the Disciplinary Authority.

6. We have framed a preliminary issue to give a finding on the validity of DE in view of the contentions raised in the claim statement. The second party examined the Enquiry Officer and this workman examined in respect of this issue. After appreciating the materials this tribunal gave a finding in favour of the management. Therefore, the case is adjourned to hear the points that lead to perversity in the findings of the enquiry officer if any, victimisation or unfair labour practice and lastly the question of punishment.

7. Shri K.V.S. the learned advocate for this workman has submitted that the management have exceeded their jurisdiction in imposing a punishment of dismissal when there is no misconduct specially a gross misconduct. This contention is due to the fact that an incident did occur on 7-8-92 resulting in shortage of cash which was immediately made good and there being no allegation of any misappropriation, either temporary or permanent, the management would not have initiated the proceedings resulting in a punishment to this workman.

8. There is considerable force in the submission of the learned advocate. On this fateful day this workman was negligent in issuing an excess cash of Rs. 1000 to one of the customer, which was later returned to the bank. In the evening when the cash has to be tallied, a shortage of Rs. 73,999.96 was found and by corrigendum dated 15-1-93, the management alleged shortage of another Rs. 25 so the total shortage was Rs. 74,024.96. It is also in evidence that this workman managed to make good

the shortage by borrowing from his colleagues and a customer as follows :—

(1) Shri Suresh Babu	Rs. 5,000/-
(2) Shri Anahdarama Rao, Accountant	Rs. 15,000/-
(3) Shri S. C. Hegde, Officer	Rs. 3,000/-
(4) Shri J. Jayakumar, Clerk	Rs. 15,000/-
(5) Shri Lakshmichand, Customer	Rs. 36,000/-

The above facts are undisputed. However, the management kept this workman under suspension w.e.f. 28-9-92. This was followed by the charge sheet and a corrigendum to the charge sheet.

9. Infact the management examined the co-employees who have paid the money to cover the shortage and the manager. These witnesses have stated what is actually transpired on that day. The workman in his reply dated 18-11-92 has accepted the excess payment of Rs. 1,000 on 30-7-92 but he has not given any acceptable reply with regard to shortage that was found on 7-2-92. The management also not able to find the reason for this shortage though a preliminary investigation was conducted.

10. In the report of the enquiry officer no new matter was discovered except the fact what happened on 7-8-92. Therefore the order of the enquiry officer has reiterated the events that happened and it has not highlighted the reason for shortage of these amounts. Therefore, to this extent the report of the Enquiry Officer cannot be construed as a fact-finding authority on which the misconduct under clause 19.5(j) is proved. Therefore, the Disciplinary Authority was not justified in passing an order of dismissal when the misconduct under clause 19.5(j) was not proved at all. This is also applies to the order of the Appellate Authority.

11. The term prejudicial to the interest of the bank is required interpretation to the extent it can be understood. Any misappropriation of amounts, forgery, misrepresentation with a view to cause financial loss to the bank are some of the instances which can be defined as the acts prejudicial to the interest of the bank. Payment of Rs. 1,000/- excess when the huge amounts are drawn cannot be construed as a misconduct but it is merely negligence in duty. This negligence is always accidental due to several factors such as a mental agony and some mental disturbance to the workman. As a human being every body is bound to discharge due to various factors in day-to-day life and therefore, this type of negligence is required to be condoned by a warning or a mere admonition. Therefore, it is difficult to accept that the charges are proved against this workman.

12. No doubt, causing a shortage of Rs. 74,000/- is not a simple matter. Filling up that shortage before closing of the account is also not a simple matter. We cannot ourselves draw any conjectures and surmises to draw some conclusion without any immedite therefore, this incident remained



as a mystery. When this being the case, it is not opened for the enquiry officer or Disciplinary Authorities that the misconduct is proved. The act cannot be called as a misconduct, as I said earlier it is an accident or an incident which occurred so mysteriously one cannot draw a definite conclusion on this.

13. As against this submission, the learned advocate for the second party has submitted that the shortage found on that day amounts to committing a gross misconduct and therefore, the second party are justified in dismissing the services of the workman.

14. I do not agree with the submission of the learned advocate for the reasons already given above.

15. This workman has joined service admittedly in the year 1979. Both Disciplinary Authority and the Appellate Authority failed to consider his past services. Consideration of past services may be immaterial if a gross misconduct such as misappropriation or forgery is proved. But in this case there is no misappropriation at all. Therefore, it is incumbent on the part of the Disciplinary Authority to consider his past services before a punishment of dismissal is imposed on this workman. The law is well settled that before imposing a major penalty the past services of a workman is required to be considered to mitigate the sentence. On this ground also the order of dismissal is not legally sustainable. Therefore this is a clear case where this tribunal shall invoke the benevolent provisions contained under Section 11A of the Industrial Dispute Act, 1947. Infact a great judge, Chief Justice Thakkar, as he then was while delivering a judgement in a case between RM Parma Vs Gujarat Electricity Board (1982) Lab IC 1031 has exhaustively dealt with punishment that can be imposed to a workman in a given circumstances. His Lordship says :—

“When difference categories of penalties can be imposed in respect of the alleged fault, one of which is dismissal from service, the disciplinary authority perforce is required to consult himself for selecting the most appropriate penalty from out of the range of penalties available that can be imposed, having regard to the nature, content and gravity of the default. Under the disciplinary authority reaches the conclusion that having regard to the nature, content and magnitude of the fault committed by the employee concerned, it would be absolutely unsafe to retain him in service, the maximum penalty of dismissal cannot be imposed. If a lesser penalty can be imposed without seriously jeopardising the interest of one employer the disciplinary authority cannot impose the maximum penalty of dismissal from service. He is bound to ask the inner voice and rational faculty why a lesser penalty cannot be imposed. It cannot be overlooked that by and large it is because the maximum penalty is imposed and total ruination stares one in the eyes that the employee concerned is obliged to approach the court and avail of the costly and time-consuming machinery to challenge in desperation the

order passed by the disciplinary authority. If a lesser penalty was imposed, he might not have been obliged to take recourse to costly legal proceedings which result in loss of public time and also result in considerable hardship and misery to the employee concerned.

16. The second party have unnecessarily conducted a domestic enquiry on a proved fact and thereby wasted their time and wasted the time of this workman also. They have unnecessarily resorted to give a punishment which is shockingly disproportionate to the proved misconduct. Therefore, the interest of justice demands that such action of the management required to be deprecated. In the result and for the reasons discussed above, the following order is passed.

### ORDER

The order of dismissal passed against this workman by the second party is hereby set aside. The second party are directed to reinstate this workman immediately to the post he was holding before his suspension. He is entitled for continuity of service and also back wages to the extent of 50 per cent only.

(Dictated to the PA, transcribed by her, corrected and signed by me on 28-9-1999).

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 7 अक्टूबर, 1999

का०आ० 3199 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबंधन के संबंध नियो-जकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 06-10-99 को प्राप्त हुआ था।

[सं० एल-12012/207/96-आई आर (बी-II)]

बी०एम० डेविड, अवर सचिव

New Delhi, the 7th October, 1999

S.O. 3199.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 06-10-99.

[No. L-12012/207/96-IR(B-II)]

B. M. DAVID, Under Secy.

### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 28th September, 1999

### PRESENT :

Justice R. Ramakrishna, Presiding Officer.

C. R. No. 258/97

### I Party

Sri T. R. Vishwanath,  
S/o Late Sri Ramachandra Prasad,  
No. 86, 10th Main Road,  
Manjunath Nagar,  
BANGALORE-10.

### II Party

The Regional Manager,  
Central Bank of India,  
No. 24, Crescent Road,  
BANGALORE-1.

## AWARD

1. The Central Government by exercising the powers conferred by clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of the Industrial Disputes Act 1947 has referred this dispute vide Order No. L-12012/207/96/1R(BI) dated 28th July, 1997 for adjudication on the following schedule :

## SCHEDULE

"Whether the action of the management of Central Bank of India in terminating the services of Sh. T. R. Vi hwanath w.e.f. 06-09-94 is legal and justified? If no, to what relief the said workman is entitled?"

2. The II party by treating the continuous absence of this workman, invoked the clause XVII (a) of the Bi-partite settlement and after fulfilling the necessary legal formalities passed an Order on 6-9-94 (Ex. M-19) treating this workman as Voluntarily Retired the services of the Bank w.e.f. that day and his name has been struck from the rolls of bank.

3. Therefore the points of dispute referred in the schedule does not spell out its true interior, as the voluntarily retirement does not amount to termination of service. Therefore the reference is defective.

4. However, keeping aside this legal defect, we have to advert to this case in the true spirit of the Order passed by the II party.

5. The I party was appointed as an Armed Guard, shortly AM, w.e.f. 29-12-83. During 1990 he was working at Sarakki Layout Branch of the Bank, Bangalore City. He has found absconding himself on one pretext or other from 1993 onwards. Therefore the Management have struck off his name after due formalities.

6. The I party in the Claim Statement has contended that he was an Ex-serviceman who was appointed on that basis. He has met with an accident on 18-1-94. He was treated until 28-11-94 at NIMHANS and Victoria Hospital at Bangalore. He was under continuous Medical treatment as he was unable to attend Bank duties.

7. It is his further contention that on 1-4-94 he has submitted a leave application for 60 days sick leave from 1-4-94 to 30-6-94. Thereafter on 1-7-94 he submitted a further leave application for the period from 1-7-94 to 9-8-94. Thereafter on 10-8-94 he submitted a further leave application upto 27-11-94. All these leave applications were supported by Medical Certificates.

8. After he was declared fit to resume duties he went to Sarakki Branch on 29-11-94, but he was told that he cannot take charge as the II party has already passed an Order removing him from service as voluntarily retired.

9. It is his further contention that though he has given his changed address, the II party have not sent any notice showing their intention to remove him from service and they have also not complied the true intentment of Clause XVIII and therefore he is entitled for reinstatement, continuity of service, full backwages and other reliefs.

10. The II party in their Counter Statement, as it regards to the facts involved in this dispute have contended that the I party started availing leave on some ground or other from the year 1993. The Bank has written its first letter on 28-1-94, showing that the I party availed leave more than 3 to 4 months during the year 1993. It is further contended that the I party submitted undated leave letters and sick certificate dated 14-2-94. According to that certificate issued by a local doctor the I party is suffering from severe Head Ache. At the first instance he sent for 28 days leave w.e.f. 28-1-94. His leave was sanctioned as an ordinary leave. Thereafter he has applied leave on privilege leave from 15-2-94 to 6-3-94 on the similar ground of "Head Ache" supported by a Certificate of the same doctor. This privilege leave was also sanctioned.

11. Thereafter the I party submitted a letter 29-3-94 that he could not attend the Office from 6-3-94 to 30-4-94 as he was suffering from Head Pain. A certificate dated 28-3-94

was produced issued by a PG trainee from NIMHANS stating he was undergoing treatment for the period of six weeks and he was coming to the Neuropsychology everyday between 3.00 to 4.00 p.m. When the Bank addressed a letter to NIMHANS to know his present address due to writing of earlier letters the bank was informed that the I party had not come for treatment from 28-3-94.

12. The Bank having found something fishy sent a Registered letter to the Residential address of the I party but the same was returned unserved for want of correct new address. Therefore an Assistant Manager was deputed to visit the Residential Address of the I party and was ascertained that the I party sold the said premises and his whereabouts are not known. Later the Bank received a copy of the letter dated 20-6-94 from the I party where he has stated that he met with an accident and took treatment from Hospital and due to other problems he has not attended the duty. The Bank sent a letter dated 5-6-94 by RPAD to New address of the I party with a direction that suitable action will be taken for his unauthorised absence but the said letter was also returned unserved. Thereafter a letter dated 5-8-94 was sent bringing to his notice of his unauthorised absence from 1-4-94 and calling up him to report for duty within 30 days. This was sent to a New address given by this party which was also returned unserved. After waiting for 30 days the management struck off his name after treating him as Voluntarily Retired.

13. They have contended that the I party by his unauthorised absence has caused disruption of work and since his conduct shown that he has not interested to continue in the service, the management took action in accordance with law.

14. This Tribunal has not framed an additional issues as the points of dispute directly covered the dispute. The Management was asked to justify their action in passing an order of voluntarily retirement against the I party. As a rebuttal evidence the I party was also examined. In a case of this nature the burden of proof should be heavy on the workman, though the Management is to justify their action.

15. The Branch Manager of the Sarakki Branch was examined as MW 1. This witness has deposed that the I party used to remain unauthorised absent and therefore a letter Ex. M-1 was sent in the first instance. Instead of attending the duty he sent the leave letter as per Ex. M-2 without any Medical Certificate. He has sent another leave letter on the ground of Head Ache. The leave was sanctioned. Once again 20 days leave was granted on the other application dated 27-2-94. The I party sent another leave letter dated 29-3-94 as he wanted to take leave from 6-3-94 to 30-4-94. The II party after granting the all available leave has treated some days as a loss of pay. Thereafter the I party produced a certificate from NIMHANS Ex. M-8. Another letter sent under Ex. M-9 was returned undelivered as he has left the address without any instruction. By addressing a letter to NIMHANS it was found that this workman is not going for treatment from 28-3-94.

16. Thereafter a Memo dated 10-5-94 was sent by Registered post to the Residential Address given to the I party. It was also returned unserved. As he has not reported for duty a letter dated 15-5-94 was sent to report for duty. That letter also returned unserved. An Officer was deputed who reported that the I party after selling the house is not known where he is residing. Thereafter the I party sent Ex. M-17 giving his address in Kolar district. As he has not reported for duty by issuing final notice to the new address given, his services are removed under Clause XVII of the Bi-partite Settlement. This workman came on 29-11-94 and he was not allowed to resume his duty.

17. In the cross-examination we cannot find any material which will go against the tenor of the evidence given by MW 1 except to say that the address written on the Postal cover to the new address given by this workman was wrongly written.

18. This workman in his evidence has deposed that he was applying leave for Head Ache and then he involved in an accident, he took treatment at NIMHANS and other places and he left the present address after selling the house and he has given new address at Kolar, but he has not received any information from the Bank.

19. The assessment of the Oral evidence along with the documents marked, clearly established that this workman is not telling the truth. He has not produced any certificate for having taken treatment from January to November 1994 at NIMHANS as contended in his Claim Statement. He has changed his stance to confining to his case. He has not taken treatment or visited the doctor appointed by the bank to prove his bona fides. He was in the habit of just sending a letter for grant of leave without giving his Permanent Address. The Bank has sent several letters by Registered post to the Known address given by this workman which were returned, enmass that the addressee is not found or left and so forth. Vide his letter Ex. M-15, dated 20-6-94 he gave a new address at Kolar. The Bank has sent all letters to this address and they have been returned as no such person is residing in that place. The defect that can be pointed out in the letter are after writing full address given by the I party. "Mullabagul Taluk" was written. In these circumstance the II party justified their action.

20. Clause XVII(a) was included in the Bi-partite Settlement with a specific goal to prevent the Bank employee to avail the leave as they like and this clause is introduced by settlement. It is binding between Management and the Workman. It has got its own sanctity which is aimed at improving the efficiency of Banking Institutions.

21. Under Clause XVII (a) if any employee without submitting any leave application remains absent for a period of 90 days or more days or absent himself 90 or more day or beyond any leave to his credit originally sanctioned, that there is satisfactory evidence that the workman has no intention of joining duties the management may at any time thereafter by giving notice to the employees last known address calling him to report for duty within 30 days after receipt of the notice, inter alia, ground for the management to come to the conclusion that the employee has no intention to report for duties. Unless the employee reports for duty within 30 days or gives any explanation to the satisfaction of the Management the employee will be deemed to have been Voluntarily Retired on the expiry of the days mentioned in the said notice.

22. Shri A. V. S. the learned advocate for the I party maintained that the continuous absence of this workman does not amount to unauthorised absence in the literal sense as this workman was sending leave application.

23. There is no merit in the submission of the learned advocate as the leave was not granted to him only on 2 occasion covered upto March 1994 and thereafter there was no leave on his credit and therefore he deemed to have been remained absent beyond the period of leave originally sanctioned or subsequently extended.

24. The learned Advocate further submitted since the notice calling for him to report for duty was not served and also the Order removing him from service, there is no proper compliance to Clause XVII. In support of this contention the learned advocate placed reliance on the judgement of the Supreme Court in Union of India and other v/s Dinanath Shantharam Karekar and others reported in Vol. 94 FJR 1099 page 10.

25 In this decision their Lordships of the Supreme Court have discussed what is actual service of notice and its consequences. It was held:

"Affirming the decision of the Tribunal, (i) that the fact that the charge sheet, which was sent to K. was returned with the postal endorsement "not found" indicated that the charge sheet was not tendered to him even by the postal authorities. The government authorities ought to have made further efforts to serve the charge sheet; a single effort could not be treated as sufficient.

(ii) That even the show-cause notice published in the newspaper could not be treated to have been served. Service of that notice was sought to be effected on K by publication in a newspaper without making any earlier effort to serve him personally or tendering the show cause notice either through Office peon or by Registered Post. Now was there anything on record to show that the newspaper in which the show cause notice was published was a popular newspaper which was expected to be read

by the public in general or that it had wide circulation in the area or locality where K lived. Therefore, the show cause notice could not be held to have been served on K.

(iii) That since the very initiation of the disciplinary proceedings was bad for the reason that the charge sheet was not served at all, all subsequent steps and stages, including the issuance of the show cause notice were bad.

Where disciplinary proceedings are intended to be initiated by issuing a charge sheet, its actual service is essential as the person to whom it is issued is required to submit his reply and, thereafter, to participate in the disciplinary proceedings. Some how when the show cause notice is issued the employee is called upon to submit his reply to the action proposed to be taken against him. Since in both the situations the employee is given by the opportunity to submit his reply, actual service must be proved and established; mere "communication" is not enough.

26. Their Lordships were examining the case of the respondent who was removed after regular departmental enquiry which was held against him. Admittedly neither the charge sheet nor the show cause notice was ever served on the respondent as insufficient and therefore, the Order of Removal are liable to be set aside.

27. There is no quarrel over the proposition of law in the above decision, because initiation of departmental enquiry shall be preceded after the service of a charge sheet and the order of dismissal on such departmental enquiry shall be made after show cause notice issued to the concerned workman. The object is that the party who is not aware of the developments shall be allowed to give his explanation to the charge sheet. If he refused to take notice it is altogether a different aspect. The principle also applies where a show cause notice is necessary before imposing a punishment.

28. In the State of Punjab v/s. Khemi Ram, AIR 1970 SC 214, this case is referred to by their Lordships, in the decision cited above. Their Lordships have distinguished the said Judgement and held:

"It will be seen that in all the decisions cited before us it was the communication of the impugned order which was held to be essential and not its actual receipt by the officer concerned and such communication was held to be necessary because till the order is issued and actually sent out to the person concerned the authority making such order is sent out, it goes out of the control of such an authority, and, therefore, there would be no chance whatsoever of its changing its mind or modifying it. In our view, once an order is issued and it is sent out to the concerned Government servant, it must be held to have been communication to him, no matter when he actually received it."

29. Their Lordships have made distinction between the two judgements and came to the conclusion as to the mode of service of the notice as it connected to the Disciplinary proceedings. Therefore Khemi Ram case applies to the facts and circumstances of this case.

30. The I party was appointed as AM. His presence in the Bank on every working day is absolutely necessary unless his Physical Condition or other social obligation does not permit him to attend the duties on some days. It is a job which cannot be delegated to any other person as this post is to be given to a particular class of persons who holds armed licence. The I party has failed to prove that he was suffering from various disease as contended by him. The certificate of NIMHANS is admittedly given by a PG trainee. Its authenticity is not proved. When the bank write a letter to the NIMHANS a responsible doctor sent a reply that the I party is not taking any treatment from 28-4-94. He cannot avail leave only on the basis of Head Ache for nearly two months. Therefore the intention of the I party is clear to conclude that he was not interested to attend the work. He has also not verified whether the leave was granted by the II party.

31. In these circumstances we should interpret clause XVII to its true intent on a particular circumstance. The technical pleas will not serve the purpose. The truth cannot be concealed. The falsity will not succeed.

32. However, having regard to the facts that this workman has under gone some family difficulty which made him to sell his house and abandon Bangalore City, we can only invoke the benevolent provisions under Section 11A of the Industrial Disputes Act.

33. Having regard to these facts and circumstances the following order is made :

#### ORDER

34. The II party are justified in striking the name of this workman as voluntarily retired invoking Clause XVII of the Bi-partite Settlement. However, invoking Section 11A of the act, the punishment of removal requires reconsideration. Therefore this order of voluntarily retirement is required substitution and the II party are directed to reinstate this workman for the post he held at the time of his removal. The I party is not entitled for back wages and continuity of service.

35. If the I party remains absent unauthorisedly even for one day during next 3 years, after his reinstatement, the II party has got a right to discharge him from service.

(Dictated to the LDC, transcribed by him, corrected and signed by me on 28th September, 1999.)

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 7 अक्टूबर, 1999

का०आ० 3200 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबन्धता के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 06-10-99 प्राप्त हुआ था ।

[सं० एल-12012/242/95-आई आर (बी-2)]

बी० एम० डेविड, अवर सचिव

New Delhi, the 7th October, 1999

S.O. 3200.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workmen, which was received by the Central Government on 06-10-99.

[No. L-12012/242/95-IR(B-II)]

B. M. DAVID, Under Secy.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 29-9-99

PRESENT :

Justice R. Ramakrishna, Presiding Officer.

C.R. No. 126/97

#### I PARTY

The General Secretary,  
Syndicate Bank Staff Association,  
Anand Plaza, Near A. R. Circle,  
Bangalore-560009.

#### II PARTY

The Zonal Manager,  
Syndicate Bank,  
Gandhi Nagar,  
Bangalore-560009.

#### AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12012/242/95-IR (B-II) dated 4-3-96 on the following schedule :

#### SCHEDULE

"Whether the action of the management of Syndicate Bank, Bangalore is justified in dismissing Shri K. Krishna Bhat, Spl. Asstt. from service w.e.f. 10-2-94 ? If not, to what relief the workman is entitled ?"

2. The concerned workman is Shri K. Krishna Bhat. The Joint Secretary of Syndicate Bank Staff Association has espoused the cause of this workman. This workman was dismissed from service w.e.f. 10-2-94 on the allegation of having committed gross misconduct under clause 19.5(j) of the BPS. At the time of his dismissal this workman was working as a Special Assistant at Thorangal Branch. The first party in the claim statement has initially questioned the validity of DE. As it regards to merits of the case the contention can be found from para (e) of the statement. The only ground taken by the first party is that the report of the enquiry officer is perverse and based on hearsay evidence and one sided. Both Disciplinary Authority and the Appellate Authority did not address themselves to the facts of the case.

3. The second party in their counter statement after justifying the validity of DE with relevant materials have contended that the misconduct committed by this workman is so grave and the said misconduct having proved in the DE, the management was justified in dismissing the services of this workman.

4. However, we have framed a preliminary issue to give a finding on the validity of DE. After examining the enquiry officer and this workman, on appreciation of the oral and documentary evidence this issue was held in favour of the management.

5. Before taking up the merits of this case it is necessary to advert to the charges levelled against this workman. Ex. M1 dated 14-11-92 is a charge sheet which runs to 6 pages and the charges are listed from one to 23 which acts are coming under the misappropriation of bank funds by fraudulent means, falsification of records to suppress the case, unauthorisedly withdrawing the funds from the customers account and misappropriating the same, misusing the discount facilities available by this workman as an employee of the bank and exceeding authority to the detriment of bank's interest.

6. The reply to this charge sheet is to be found in Ex. M3 dated 8-12-92. In this reply this workman has contended that while working at Thorangal branch he has committed certain mistakes which were unintentional. He had no intention to misappropriate the bank's funds, falsify the bank records and unauthorisedly withdraw funds from the Customers Account. It is really unfortunate that certain mistakes as mentioned in the charge sheet crept in for which he regret very much. Certain debits to the customers/staff account were with their due permission/authorisation. Further there was no financial loss to the bank on account of these mistakes. As to the discounting of cheques, he got the same done in anticipation of certain credits to his SB account at Janata Co-operative Bank, Udupi. As the credits were not forthcoming cheques were returned unpaid and for which he regret very much.

7. To prove the misconduct independently the management have conducted a regular enquiry where the relevant witnesses were examined and the documents MEX 1 to MEX 106 were marked. This workman has not examined himself independently nor examined any witness on his behalf. He has filed a statement marked as MEX 1 defending his actions.

8. In MEX 1 he has stated that he made temporary judgments to the funds by making entries in his SB account and also in few other SB accounts of the parties as he was in financial difficulties in prosecuting the studies of his son. He has given in detail how he has indulged in transferring the amounts belongs to the customers to his account and the extent of money he has misused by adopting this method.

9. The learned advocate for the second party has submitted that the offence committed by this workman, which is proved in the evidence of both oral and documentary and the gravity of the misconduct is such that the bank has lost confidence on this workman and therefore, the order of dismissal does not require any interference.

10. Against this submission the first party filed a written arguments consisting of 10 pages where the evidence of the witnesses are extracted to show that the charges are not proved and therefore, the report of the enquiry officer is perverse.

11. I gone through carefully the written arguments filed by the first party. By extracting some portions of the evidence it is contended that they are not amounted to legal evidence and therefore, the report of the Enquiry Officer is not sustainable. I am not able to subscribe myself to this view of the first party. First party in his reply to the charge sheet and also through his letter MEX 1 accepted the misconduct committed by him and therefore, there was no necessity for the management to conduct a detailed enquiry to prove the misconduct. However, the management to be on the safer side have not placed sole reliance on the acceptance of guilt by the first party but they are established the misconduct by independent evidence.

12. If the validity of DE is held to be fair and proper this tribunal cannot reappraise the evidence recorded in the DE to come to a different conclusion than what is arrived by the Enquiry Officer. The term perversity is to be understood on its true intent to find out that the report is not based on legal evidence. It is not the interpretation of the evidence to suit a particular conclusion but the overall effect of the evidence that matters.

13. This workman has committed a gross misconduct and therefore, his defence that he had 24 years of service to his credit does not ensure to his benefit. Having regard to these facts and circumstances the following order is made :—

#### ORDER

The management of the Syndicate Bank are justified in dismissing this workman from service w.e.f. 10-2-94. The reference is answered accordingly.

(Dictated to the PA, transcribed by her, corrected and signed by me on 29-9-99.)

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 7 अक्टूबर, 1999

कां०अ० 3201 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनाइटेड बैंक ऑफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 06-10-99 को प्राप्त हुआ था।

[सं० एल-12011/85/98-आई आर (बी-II)]

बी०एम० डेविड, अवर सचिव

New Delhi, the 7th October, 1999

S.O. 3201.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the

Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of United Bank of India and their workmen, which was received by the Central Government on 6-10-99.

[No. L-12011/85/98-IR(B-II)]

B. M. DAVID, Under Secy.

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 18 of 1999

#### PARTIES :

Employers in relation to the mangement of United Bank of India.

#### AND

Their workmen

#### PRESENT :

Mr. Justice A. K. Chakravarty, Presiding Officer.

#### APPEARANCE :

On behalf of Management—None.

On behalf of Workmen—None.

STATE : West Bengal. INDUSTRY : Banking.

#### AWARD

By Order No. L-12011/85/98/IR(B-II) dated 12-5-1999 the Central Government in exercise of its powers under sub-sections (1)(d) and (2A) of Section 10 of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of United Bank of India in withdrawing the scheme for providing special medical aid and leave continuing since 1979 is justified? If not, what relief are the employees entitled to?”

2. When the case is called out today, none appears from either of the parties inspite of service of notices upon them. It is therefore clear that the parties are not interested to proceed with the matter.

3. So, in absence of any material whatsoever for decision in respect of the schedule under reference, this Tribunal has no other alternative but to dispose of the matter by passing a “No Dispute” Award.

4. A “No Dispute” Award is accordingly passed and the matter is disposed of.

This is my Award.

Dated, Calcutta, the 16th September, 1999.

A. K. CHAKRAVARTY, Presiding Officer

नई दिल्ली, 7 अक्टूबर, 1999

## SCHEDULE

का०आ० 3202 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ोदा के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बैंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 06-10-99 प्राप्त हुआ था।

[सं० एल-12011/1/99-आई आर (बी-II)]

बी०एम० डेविड, अवर सचिव

New Delhi, the 7th October, 1999

S.O. 3202.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Baroda and their workmen, which was received by the Central Government on 6-10-99.

[No. L-12011/1/99-IR(B-II)]

B. M. DAVID, Under Secy.

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT, BANGALORE

Dated : 10-9-1999

## PRESENT :

Justice R. Ramakrishna, Presiding Officer.

C.R. No. 78/99

## I PARTY

The General Secretary  
BOB Employees Union,  
C/o Bank of Baroda,  
P.B. No. 2, K.G. Road,  
Bangalore-9.

## II PARTY

The Regional Manager  
BOB Reg. Office No. 26,  
HJS Chambers, III Floor  
Richmond Road,  
Bangalore.

## AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12011/1/99/IR(B-II) dated 14-6-99 on the following schedule:

"Whether the action of the management of Bank of Baroda in rejecting the application of Smt. Kiran D. Marathae M.G. Road Branch and Smt. A.P. Suchitha, Jayanagar branch, Bangalore for selection as ALPM/AEAM Operator is justified and legal? If not, what relief the workmen Smt. Kiran D. Marathe and Smt. A. P. Suchitha is entitled for?"

2. This reference is received on 5-7-99. Notices are issued to both parties to be present on 3-3-99. On that day both parties are absent. The case is adjourned to 20-8-99 for their appearance. As none appeared on that day it was adjourned to 10-9-99.

3. The first party who is supposed to file his claim statement within 15 days from the receipt of the dispute seen by the Government of India or immediately thereafter before this Tribunal has not cared to appear and file his statement for proper progress of the case. Since the notice is duly served and the first party remained absent this Tribunal has no alternative except to reject the dispute.

## ORDER

The reference is rejected.

(Dictated to the PA, transcribed by her, corrected and signed by me on 10-9-99).

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 7 अक्टूबर, 1999

का०आ० 3203 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केनरा बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बैंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 06-10-99 प्राप्त हुआ था।

[सं० एल-12012/259/91-आई आर (बी-II)]

बी०एम० डेविड, अवर सचिव

New Delhi, the 7th October, 1999

S.O. 3203.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Canara Bank and their workman, which was received by the Central Government on 6-10-99.

[No. L-12012/259/91-IR(B-II)]

B. M. DAVID, Under Secy.

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT, BANGALORE

Dated : 27-9-1999

## PRESENT :

Justice R. Ramakrishna, Presiding Officer.

C.R. No. 16/92

## I PARTY

R. Jayaramu,  
S/o Sri Rangaiah  
No. 1, 4th Cross,  
Govinayakanahalli  
Kumaraswamy Lay out,  
Bangalore-560 078.

## II PARTY

The Dy. General Manager  
Canara Bank, Staff Section,  
Circle Office, Spencer Tower,  
No. 86, M.G. Road,  
Bangalore-560 001.

## AWARD

1. The Central Government, by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/259/91-IR (B.II) dated 3-2-92 on the following schedule:

## SCHEDULE

"Whether the action of the Management of Canara Bank in dismissing Shri R. Jayaram, Clerk, from the services of the Bank is justified? If not, to what relief is the workman entitled?"

2. The first party was appointed as a clerk in the year 1976. During March 1989 he was working as a clerk in the clearing section at No. 14, Nrupathunga Road, Bangalore. During that period certain irregularities were noticed in the clearing section. After preliminary investigation it was found that the first party was involved in these irregularities and therefore the management have decided to initiate disciplinary proceedings. Thereafter a charge sheet dated 10-3-89 was issued on the following allegations :—

"On 30-9-1988, a S. B. Account bearing Number 10721 was opened in the name of Sri Azaz with address 2931, Banashankari II Stage, Bangalore-560 090, at the South East branch of the Bank. The first party came to the branch with the party on that day and go him introduced by Shrivappa, a Clerk in the South End Road Branch. The first party also signed on the Account Opening form as introducer.

A cheque book containing 10 leaves bearing Nos. 994041 to 994050 was issued to the Account holder.

On 2-11-1988 while working in the Clearing Department in Group II, the first party at about 12.15 PM collected the cheques of first clearing from the box which had come from the Reserve Bank of India and distributed the cheques to other Clerks, retraining some cheques presented by Indian Bank as well as some other Banks.

After typing out the list of cheques of Indian Bank, First party handed over the cheques and the list prepared by him to Sri Sathyanarayana, an officer, for verification. After verification, the cheques were sent for sorting out, branchwise. The first party assisted one Sri Jayadevappa, Clerk of Group II, in sorting out these cheques. When the cheques were listed out branchwise after sorting and individual branch totals were arrived at, it was found that they did not tally with the figures sent by Reserve Bank of India pertaining to Group II.

On verification from Indian Bank it was found that there was a difference of Rs. 65,000 on account of two cheques presented by Indian Bank, Richmond Branch, Bangalore which were found missing. These cheques bearing No 994041 for Rs. 34,535.00 and another bearing No. 994042 for Rs. 30,465 had been presented for clearing by Indian Bank on behalf of their customer, Sri Jumsheed. These cheques were drawn on S.B. Account No. 10721 of Mr. Azaz at the South End Road branch, which had a balance of Rs. 100 only at the time of presentation of these cheques.

On further verification it was found that the address furnished by Shri Azaz in the Account Opening form is a fictitious one. It was further found that the First party had taken out the cheques received from Indian Bank for clearing on 2-11-1988 at the Clearing Section including the 2 cheques referred to above which were missing.

3. The workman denied the charges vide his reply dated 27-3-1989. The management decided to conduct a domestic enquiry by appointing a law Officer as an Enquiry Officer. The workman duly represented in the domestic enquiry. The management examined 8 witnesses on their behalf. The workman examined himself as DW1 and examined one Jumsheed as DW2. On behalf of the management Ex. M1 to Ex. M18 are marked. On behalf of defence 4 documents are marked as defence exhibits. The Enquiry Officer after assessing the evidence came to the conclusion that the charges against this workman was proved. Since the enquiry officers, under Regulations of Canara Bank Service Code are empowered to suggest the punishment, he has recommended, the punishment of dismissal from service has contemplated under Chapter XI, Regulation 4(g) of Canara Bank Service Code. Thereafter he has submitted a final



report Ex. M7 to the Disciplinary Authority wherein the proposed punishment of dismissal from service and "under punishment recommended" he has suggested stoppage of increment for a period of eight years with-out cumulative effects as contemplated under Chapter XI, Regulation 4(d) of Canara Bank Service Code.

4. The Disciplinary Authority has imposed the punishment of dismissal.

5. The first party in his claim statement initially questioned the validity of DE. He has also contended that the report of the Enquiry Officer was a perverse order and there is violation of service rules by the management.

6. The second party in their counter statement have not only justified that the proved misconduct against this workman, the punishment of dismissal is a considered order.

7. However, this tribunal has framed a preliminary issue to give a finding on the validity of DE. It is most unfortunate that no progress has been made to decide this issue within a time frame work and a finding was given on this issue on 9-7-99. We found that the workman is crippled and he has been brogght to this tribunal by the assistance of two persons as he could not walk also. However, on the assessment of the materials placed before this tribunal, the validity of DE was in favour of the management. The learned advocates are directed to argue the case on merits of the contention taken in the claim statement. It is undisputed by analysing the evidence of MW1 to MW6 that this workman has helped a customer by name Azaz to open an S.B. Account bearing No. 10721 at South End Road Branch, Jainagar and infact he has introduced this customer to the bank by signing in the form Ex. M9 and also he has taken the assistance of another Staff Shivappa to introduce this customer. A cheque book bearing No. 994041 to 994056 was issued to this customer. The initial deposit was on'y Rs. 100. This customer has issued 2 cheques to one Jumsheed, the first party cheque bearing No. 994041 for Rs. 34,535 and No. 29442 for Rs. 30,465 i.e. Rs. 65,000 in total. The said Jumsheed deposited this amount in his account at Indian Bank at Mysore Road Branch. These two cheques were sent for collection to the RBI. The representative of the second party bank, as it is invague, collected the cheques addressed to Canara Bank and brought them to clearing section. While grouping the cheques branchwise these two cheques were found missing. This was discovered immediately when a list sent by RBI was verified with a list prepared in the clearing section. Infact the receipt of these two cheques was typed by the first party in Ex. M2.

8. Thereafter proper verifications were made and it is observed that Azaz was a fictitious person and the address which he has given was a place where he never resided.

9. However, there was no financial loss to the bank as the immediate detection of missing cheques were conveyed to concerned banks and the payment was stopped.

10. Shri P. S. S. the learned advocate for the second party has submitted that there could not be any doubt on the assessment of the evidence that the first party was deliberately involved himself in this misconduct and therefore, the bank had no other alternative except to dismiss him from service.

11. As against this submission Shri V. R. D. the learned advocate for the first party has submitted that though the facts and circumstances cannot be disputed but a direct imputation against this workman is not proved. Therefore, this tribunal may interfere with the punishment aspect by exercising the discretionary powers vested under Section 11A of the Industrial Disputes Act.

12. Section 11A was introduced by the Act 45 of 1971 w.e.f. 15-12-1971.

13. The intention of introducing this section in the statute is to empower the adjudicating authorities to satisfy that the order of discharge or dismissal was justified. In the event the adjudicating authorities does not satisfy with the order the same can be set aside and the management may be directed for reinstatement of the workman imposing such terms and conditions as it thinks fit. The court also empowered to give other reliefs including any lesser punishment in lieu of discharge or dismissal.

In workmen of Firestone Tyre & Rubber Co. V. Management, 1973(26)FLR 359(SC) the Supreme Court observed that "the words" in the course of the adjudication proceeding the tribunal is satisfied that the order of discharge of dismissal was not justified clearly indicate that the Tribunal is now clothed with the power to reappraise the evidence in the domestic enquiry and satisfy itself on by an employer established the misconduct alleged against a workman. What was originally a plausible conclusion that could be drawn by an employer from the evidence, has now given place to satisfaction being arrived at by the Tribunal that the finding of misconduct is correct. Tribunal is now at liberty to consider not only whether the finding of misconduct recorded by an employer is correct, but also to differ from the said finding if a proper case is made out. What was once largely in the realm of satisfaction of the employer, has ceased to be so, and now it is the satisfaction of the Tribunal that finally decides the matter".

14. In order to grant a relief under Section 11A the tribunal has to trace out that the discharge or dismissal is not justified. While considering this aspect of the matter the evidence already recorded at the DE is material on record that could be and should be considered.

15. If we analyse the case in hand though it is proved factually, a direct involvement of this workman is only hypothetical. There is no clear evidence to show his involvement he has admitted that he know the customer Azaz but the said person went in thin air when his crime was detected. Shri Jumsheed who



received the cheques from Azaz has said that the said transaction was in respect of an estate business. Admittedly this workman joined the services of bank as a probationer on 21-7-76. At the time of his alleged offence he had put up 12 years of service. There is no material that any misconduct was detected in the affairs of this workman nor there is any evidence with regard to his efficiency in service.

16. If we take this fact into consideration the punishment recommended by the Investigation Officer in Ex. M7 at serial number 10 was a correct recommendation for the Disciplinary Authority. The Disciplinary Authority vide his order dated 16-4-90, Ex. M8 has not given any reason for not accepting the punishment recommended but accepting the punishment proposed.

17. Taking into consideration the facts and circumstances of the case and also taking into consideration that this workman immediately thereafter suffered Cerebral De-hydration and is taking continuous treatment at Nizam's, the following order is inevitable.

### ORDER

The order of dismissal from service w.e.f. 16-4-90 is hereby set aside. The punishment recommended is accepted. Accordingly there shall be stoppage of increment for a period of 8 years without cumulative effect as contemplated under Chapter XI, Regulation 4(d) of Canara Bank Service Code. Since this workman is the cause for this unhappy situation his entitlement for back wages is to be restricted at 25% only. The second party are directed to reinstate him to the position he was holding before the order of dismissal. In the event the second party considers his present handicap does come in the way of his work by taking into consideration the gravity of the handicap and if it is found for all practical purposes he is a dead person with life in it, it may take a compassionate ground to appoint any of his kith and kin i.e. his wife for a suitable job in the bank. The reference is answered accordingly.

(Dictated to the PA, transcribed by her, corrected and signed by me on 27-9-1999).

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 7 अक्टूबर, 1999

कां०आ० 3204 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार युनाइटेड बैंक ऑफ इण्डिया के प्रबंधक के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कलकत्ता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 06-10-99 को प्राप्त हुआ था।

[सं० एल-12012/637/86-डी-II(ए)]

बी०एम० डेविड, अवर सचिव

New Delhi, the 7th October, 1999

S.O.3204.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the Industrial Dispute between the employers in relation to the 3142 GI/99—18.

management of United Bank of India and their workman, which was received by the Central Government on 06-10-99.

[No. L-12012/637/86-DII(A)]

B. M. DAVID, Under Secy.

### ANNEXURE

### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 141 of 1988

### PARTIES :

Employers in relation to the management of United Bank of India.

### AND

Their workmen.

### PRESENT :

Mr. Justice A. K. Chakravarty, Presiding Officer.

### APPEARANCES :

On behalf of Management : Mr. Anil Kumar, Law Officer of the Bank.

On behalf of Workman : Mr. Dipak Sarangi, Assistant General Secretary of the United Bank of India Employees' Association.

STATE : West Bengal.

INDUSTRY : Banking.

### AWARD

By Order No. L-12012/637/86-D.II(A) dated 11-12-1987 the Central Government in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of United Bank of India, 16 Old Court House Street, Calcutta-700001 in dismissing Shri Ramprasad Das, Cashier-cum-General Clerk, United Bank of India, Regional Manager's Office, Khudiramnagar, District Midnapore by its order bearing No. PD/DIR/R/9525 dated 28-5-85 is justified? If not, to what relief is the workman entitled?"

2. The concerned workman, Ramprasad Das has raised this industrial dispute against the management of United Bank of India, 16 Old Court, House Street, Calcutta (in short the management) for dismissing him from service. His case, as made out in the written statement, in short, is that on 14-4-79 he was working as Cashier-cum-General Clerk on overtime duty from 8 A.M. to 10 A.M. in the Advance Department of Egga Branch of the Bank. At about 9.30 A.M. one P.C. Sahoo, one of the customer, came to the Bank for depositing some money. He requested the concerned workman to receive the same as he was in a hurry and the workman upon receiving the said amount put his signature on the pay-in-slip under the common seal of the Bank. He also signed the Pass Book of the said customer with his signature thereon. The cash counter seal could not be put in as the normal working hours had not started at that time. On 21-4-79 the same customer came to the concerned workman and requested him to make his Pass Book up-to-date. He then consulted ledger book but did not find any entry of deposits made on 14-4-79. On seeing his own signature on the Pass Book he made an entry in the ledger book for the deposit on 14-4-1979. About two months thereafter at the time of reconciliation of SB Ledger a shortage of Rs. 2,300 was detected. The matter was informed to the concerned workman and though he remembered that the said amount was received by him on 14-4-1979 he could not remember where he kept the same. The management then asked him to deposit the amount of Rs. 2,300 which he did. On 13-6-1979 one Jorech Chandra Paul found the said amount of Rs. 2,300 with pay-in-slip in an envelope in a file of Advance Department. The Manager examined the money and being satisfied the said money was refunded to the concerned workman. Thereafter on 21-1-1980 a chargesheet was issued against the concerned workman which he replied on 25-2-1980. The management

being not satisfied with his reply issued notice for holding enquiry. On 18-8-1981 the management issued another chargesheet which was also replied by the workman by his letter dated 12-11-1981. In November, 1982 the enquiry proceeding was started. It is alleged that the proceeding was conducted in a mala fide manner, the Enquiry Officer was biased and the findings of the Enquiry Officer was not based on evidence. His dismissal from service being based on such invalid report, the workman prays for setting aside the same and also for his reinstatement with back wages.

3. The management in its written statement has alleged that it issued a chargesheet for commission of the following acts of misconduct in its letter dated 25-1-1980 and 18-8-1981 :—

- (a) Misappropriation of bank's/parties fund.
- (b) Doing an act prejudicial to the interest of the Bank.
- (c) Interfering with the Books and Accounts of the Bank.
- (d) Obtaining cheque purchase facilities from the Bank without having sufficient balance for personal gains and purpose.
- (e) Enjoying the funds of other Banks/Cooperatives on a false pretext and without disclosing proper identity in an irregular manner causing disreputation to the Bank.
- (f) Standing as guaranter of loans obtained by his family members without obtaining prior permission from the authority.

Regarding the incident of 14-4-1979 it is alleged that the concerned workman did not deposit and keep the voucher of Rs. 2,300 received by him through false entry in the pass-book and the ledger entry was made to mislead the depositor to cover-up his act of mis-appropriation. On 22-8-1979 the concerned workman issued a cheque of Rs. 1,000 in favour of one Haripada Das, a sub-staff of Egra Branch. The said cheque was purchased but instruction was not sent for collection to Contai Branch and during investigation it was revealed that when the cheque was issued there was no balance in his Savings Bank Account. Again on 31-3-1979 while the concerned workman was working as temporary Special Assistant in the Bank's Egra Branch, he purchased a cheque without the knowledge and permission of the Agent or Accountant of the said Branch. That cheque was sent for collection on 7-6-1979, but it was returned. Subsequently he adjusted the cheque purchase amount by depositing Rs. 1,000. The concerned workman also obtained loans from other banks in his personal capacity along with other members of his family. In one case he stood as a guaranter without prior permission of his employer. He also took other loans from other banks and co-operative societies and though the papers concerned house building loan was taken back by him he had not returned the money. The explanation submitted by the concerned workman having been found unsatisfactory, the management instituted an enquiry proceeding. The concerned workman duly participated in the said proceeding. The Enquiry Officer found him guilty of (a) and (d) items the charges upon consideration of the evidence adduced before him. The disciplinary authority thereafter dismissed him from service after consideration of his representation as to why such punishment shall not be imposed upon him. An appeal was preferred against the order of the disciplinary authority and that was rejected. The management also alleged that the recovery of Rs. 2,300 subsequently from the cabinet of the record room by a sub-staff is a got-up story as the denominations of the notes deposited by the customer and recovered by the sub-staff did not tally. The Bank has accordingly alleged that the enquiry proceeding was rightly held and the concerned workman was rightly dismissed from service.

4. The workman has filed a rejoinder denying the allegations of the management and reiterating his own allegations in his written statement.

5. This Tribunal upon consideration of the preliminary points about the legality and validity of the enquiry proceeding held by its order dated 29-7-1999 that "the findings of the Enquiry Officer being thus not liable to be challenged on the grounds of procedural infirmity or non-obervance of the principles of natural justice or perverse findings that I am

to hold that the enquiry proceeding was legal, valid and proper".

6. The parties having been directed to make their submission about the quantum of punishment under Section 11A of the Industrial Disputes Act, 1947, representatives of the parties made their submissions in respect of the same on the evidence already on record in this case.

7. Mr. Sarangi, representative of the workman at the outset submitted that there may be some fault or carelessness on the part of the concerned workman, but that does not justify imposition of the harshest punishment of dismissal from service. Mr. Kumar, representative of the management strongly denied such submission on behalf of the workman and alleged that the Bank's service demands highest integrity of the employees and commission of any offence invading such integrity on the part of a workman should visit with no other punishment less than dismissal of such workman from service.

8. It is no doubt true that the Bank is one of the leading financial institution and any erosion of faith of the customer in the Bank due to fault of its employees may cause discredit to the banking system itself, impairing thereby economic prosperity of the nation. The Hon'ble Supreme Court's observation in the case of *Tara Chand Vyas v. Chairman and Disciplinary Authority & Ors.*, reported in 1997 SCC (L & S) 1241 may be cited with advantage in this matter :—

"The employees and the officers working in the nationalised bank are not merely trustees of the society but also bear responsibility and owe duty to the society for effectuation of the socio economic improvement. ...."

The Hon'ble Supreme Court also expressed its strong objection against unjust enrichment of anyone at the cost of the society. Side by side, it must be remembered that the very nature of imposition of punishment demands careful consideration by the punishing authority and necessity of exercising extreme caution in inflicting punishment so that such punishment does not become disproportionate to the gravity of the offence committed by the delinquent.

9. Keeping the above view points in mind, it is necessary to examine the evidence on record for an objective assessment of the offence committed by the concerned workman. In the instant case, the concerned workman was charged for commission of various offences including misappropriation of Bank's fund and obtaining cheque purchase facilities from the Bank without having sufficient balance, enjoying thereby Bank's fund for his personal gain. The workman was found guilty of commissioning of the two last mentioned offences and the management thereupon imposed the punishment of dismissal from service.

10. From the preliminary finding of this Tribunal about the legality and validity of the enquiry proceeding it is found that the Enquiry Officer rightly conducted the enquiry after due compliance of the natural justice and his findings were not perverse as these were based upon the evidence on record. That being so, it will now be necessary to examine the evidence on record as to the manner in which the offence was committed for judging the gravity of such offence. The conduct of the workman is also to be taken into account for that matter. Here in this case, I find that as many as 5 witnesses were examined by the management during the preliminary hearing. It is true that initially it was ordered by this Tribunal that the matter will be considered on the ground of merit also, but subsequently it was modified and hearing was made about the legality and validity of the enquiry proceeding. Be that as it may, since the management's evidence in the preliminary hearing as well as in the enquiry proceeding are evidence on record in this case, I have examined all such evidence and find that it is well-established by evidence that on 14-4-1979 while the concerned workman was working as Cashier, he received the sum of Rs. 2,300 from one Shri Purna Chandra Sahoo by putting the common seal of the Bank instead of cash receipt seal in the cash receiving pay-slip. His case that he received that cash while working in the Bank at 9 A.M. when the Bank had not opened was not proved. Rather, it has been proved that he received the cash during the regular office hours at 10.30 A.M., but he did not enter the same in the Bank's cash receipt book. It has further been proved that he made a credit entry of Rs. 2,300

in the concerned ledger sheet surreptitiously without the knowledge of the concerned clerk who upon finding such entry, noted his remark as 'fictitious' against such entry. Thereafter on complaint of the customer after detection of the matter, he deposited the said amount of Rs. 2,300 on 9-6-1979. It was submitted on behalf of the workman that there being evidence that he deposited the money after it was detected that whatever was done by the concerned workman in respect of the transaction should be considered as mere negligence on his part and the extreme punishment of dismissal should not be imposed for such negligence/unmindfulness. It is true that after detection of the fraud the cash amount of Rs. 2,300 was recovered from the voucher file of the Bank. But, unfortunately there is evidence, as well appear from enquiry report, that the denomination of the money did not tally with the denominations of money receipt by the concerned workman on 14-4-1979. It is therefore clear that the envelope containing recovered cash was planted after the matter was detected. Regarding the second set of charges of using the Bank's money for personal benefit by purchase of cheques issued against an account without balance, the evidence on record and the report of the Enquiry Officer will clearly show that such charges were proved.

11. The conduct of the concerned workman, during this period does not show that he was repentant after the commission of the offence. Instead of that he tried to conceal his offence by committing other offences like making false ledger entry or planting of objects to mislead the management. Such conduct on the part of the workman does not show that he was really repentant even after commission of the offence. He did not understand that by his acts, he not only betrayed the confidence of his employer i.e. the Bank, but also the confidence of the customers who unhesitatingly keep their money and valuable belongings in the Bank. The depravity of the character exhibited by such acts of the concerned workman shall make it dangerous for the management to keep such a man on its employment. The management was accordingly justified in imposing the extreme punishment of dismissal from service upon the concerned workman.

12. So, upon consideration of the facts, circumstances, evidence on record and the position of law in the matter, I am to hold that the action of the management of United Bank of India in dismissing Shri Ramprasad Das from its service on 28-8-1985 was justified. The workman shall not accordingly be entitled to any relief in this case.

This is my Award.

Date, Calcutta,

The 20th September, 1999.

A. K. CHAKRAVARTY, Presiding Officer

नई दिल्ली, 12 अक्टूबर, 1999

सं०आ०३२०५.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कलकत्ता पोर्ट ट्रस्ट के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कलकत्ता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-10-99 प्राप्त हुआ था।

[सं० एन-44012/7/93-आई आर (विधि)]

बी०एम० डेविड, अवसर सचिव

New Delhi, the 12th October, 1999

S.O. 3205.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Calcutta as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Calcutta Port Trust and their workman, which

142 GI/99—18

was received by the Central Government on 11-10-99.

[No. L-44012/7/93-IR(Misc.)]

B. M. DAVID, Under Secy.

## ANNEXURE

### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA Reference No. 10 of 1994

#### PARTIES :

Employers in relation to the management of Calcutta Port Trust.

#### AND

Their workmen,

#### PRESEN'T :

Mr. Justice A. K. Chakravarty, Presiding Officer.

#### APPEARANCES :

On behalf of the Management—Mr. S. Ghosh, Deputy Labour Adviser and Industrial Relations Officer with Mr. C. Mukhopadhyay, Senior Labour Officer(IR).

On behalf of Workmen.—Mr. P. C. Mondal, Executive Committee Member of the Union.

STATE : West Bengal. INDUSTRY : Port & Dock.

#### AWARD

By Order No. L-44012/7/93-IR(Misc.), dated 1-3-1994 the Central Government in exercise of its powers under section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of Calcutta Port Trust in terminating the service of Smt. Nilful Rani Nath, Peon w.e.f. 7-12-90 is justified? If not to what relief Smt. Nilful Rani Nath is entitled?”

2. National Union of Waterfront Workmen(I) (in short the union) has raised the present industrial dispute in respect of termination of service of one Smt. Nilful Rani Nath, a Peon of the Calcutta Port Trust on 7-12-1990.

3. Union's case, as it is made out in the written statement in this matter is that the concerned workman Nilful Rani Nath was appointed as a Peon on 2-5-1985 on compassionate ground by the management of Calcutta Port Trust. Smt. Nath was advised to submit school certificate after expiry of more than 4 years of service from the date of her appointment. But, she having failed to do the same, she was sent to the C.M.O. for assessment of her age on 4-11-1988. Thereafter she submitted a school Leaving certificate on 14-12-1988 and though she had rendered unblemished service for more than 5 years as a Peon, still then, her service was not confirmed. It is alleged that she submitted the school leaving

certificate as per office record, but there is no note about the receipt of the same. It is further alleged that submission of a false school leaving certificate as proof of age of Smt. Nath was a product of conspiracy and the certificate produced now by the management was not that certificate which was produced by Smt. Nath. It is also alleged that the statement of article of charges for submission of false school leaving certificate was framed against Smt. Nath, but no departmental enquiry was held as per disciplinary rules of the CPT, nor she was given any chance to defend herself. Management having been alleged to have wrongfully dismissed her from service, she applied to the appellate authority against the order of the disciplinary authority, but got no relief. Smt. Nath accordingly referred the matter to the union which took up her case and raised the industrial dispute. Union accordingly prays for declaration that the action of the management is legal and for her reinstatement with back wages.

4. Management of Calcutta Port Trust filed a written statement alleging, inter alia, that after the appointment of the concerned workman on compassionate ground on 2-5-1985 her age was assessed medically on 4-11-1988 as she declared that she had no valid document in support of her age and will not produce any such document in future. Her age was assessed medically by the Chief Medical Officer as 34 years on 4-11-1988. Smt. Nath thereafter submitted a school leaving certificate dated 5-1-1972 to the Harbour Master (River) by her application dated 19-12-88 which was received in the office on 22-12-1988. Such certificate having been produced after the declaration that there was no such certificate, matter was referred to the Chief Vigilance Officer, who found the same as a fake one on enquiry. On receipt of the report of the Vigilance Officer, Smt. Nath was suspended and subsequently the management issued a chargesheet dated 10-9-1990 charging her of commission of misconduct by filing a false school leaving certificate as proof of her age. Smt. Nath in her reply to the chargesheet admitted the charge levelled against her and the disciplinary authority thereupon issued the order of termination of her service. Smt. Nath preferred an appeal to the Chairman on 5-2-1991. There too, she admitted her misconduct unconditionally. She, however, prayed for a sympathetic consideration of her case because of pitiable financial condition of her family. The appellate authority upon sympathetic consideration of her case, while holding that her removal order was fully justified in consideration of gravity of her misconduct, directed fresh appointment of Smt. Nath as a female attendant in the medical department. The management denied that it ever advised Smt. Nath to submit school certificate. She was sent for medical examination for proof of her age on her declaration that she has no documentary evidence in support of her age. Smt. Nath had not the requisite qualification for holding the post of Peon at the time of her appointment and she was advised to acquire necessary educational qualification. Management also denied the allegation of any conspiracy against Smt. Nath and alleged that since she admitted the charge unconditionally, no question of conspiracy can arise. It is also alleged that there was no necessity of holding a regular departmental enquiry as the charge was admitted by Smt. Nath.

Management accordingly prayed for dismissal of the case of the union.

5. The union in its rejoinder against the written statement of the management alleged that Smt. Nath was neither asked to produce any document in support of her age, nor was she sent to the medical officer of the Calcutta Port Trust for assessment of her age at the time of her appointment on 2-5-1985 as per practice followed by the management. It is alleged that the charge of submitting false school leaving certificate by Smt. Nath was neither based on facts nor evidence. Even if she had submitted such certificate, still that does not justify imposition of extreme punishment of dismissal from service. Had a departmental enquiry was held that would have revealed the conspiracy. Regarding the admission of charge by Smt. Nath in the reply to the chargesheet as well as in the appeal, it is alleged that such admission having been obtained from her by application of force and tricks that these should not be taken as admission of her guilt. It is also alleged that such admission was obtained as she was led to believe that she would be exonerated of her charge if she confessed her guilt. The union finally alleges that since Smt. Nath obtained her fresh appointment in the scale of a Peon, she should be compensated by reinstatement to that post from the date of her termination from service along with back wages.

6. Heard Mr. Ghosh on behalf of the management and Mr. Mondal on behalf of the union.

7. Both parties have produced certain documents in support of their respective cases and while the union examined three witnesses, management examined only one witness.

8. It is a very peculiar case where the union itself does not know for certain about the manner in which it is to make out its own case before the Tribunal. In the written statement of the union, as shown above by me, contradictory statements have been made regarding the submission of the school leaving certificate. Admittedly, the concerned workman Nilul Rani Nath was appointed as a Peon on 2-5-1985 by the management of the Calcutta Port Trust on compassionate ground. It is also admitted that she was sent to the Chief Medical Officer for assessment of age on 4-11-1988 and her age was assessed there as 34 years on 4-11-1988. The medical certificate is produced by the management and marked Ext. M-1 in this case. It will appear from this certificate that Smt. Nath made a statement there that she has no valid document in support of her age and she will not produce any document in respect of the same in future. Shortly thereafter, on 14-12-88, according to the union, and 22-12-1988, according to the management Smt. Nath produced a school leaving certificate with an application. This application is produced by the union marked Ext. W14 in the case. In this application she had stated that since she was a house-wife. Male members of the family used to keep her papers in their custody and as she had no idea that these papers might be required at any time that she declared before the Chief Medical Officer that she had no valid document in support of her age. She, however, found the school leaving certificate subsequently and produced the same. Smt. Nath admitted her signature in this document. In the face of her

unequivocal statement before the Chief Medical Officer that she has no valid document in support of her age in her possession, for subsequent statement that school leaving certificate recording her age has been found out on search evokes doubt. The concerned workman cannot at all be believed that she was never asked by the management to produce proof in support of her age. Had her statement been correct, there would not have been any necessity for getting it recorded from her that she has no valid proof in support of her age and that she would not produce any document in future for the same.

9. Admittedly, no departmental enquiry was held by the management before termination of service of the concerned workman. From the evidence of MW-1, Probhat Kumari Chattopadhyay it will appear that after the chargesheet was issued Smt. Nath admitted her guilt in her reply to the chargesheet and her service was terminated on that basis. On her appeal against that order, the appellate authority directed her fresh appointment in the medical department. The chargesheet is dated 10-9-1990 and marked Ext. M-6. Her reply thereto is marked Ext. W-6. In her reply dated 15-9-1990 she admitted the charge unequivocally and prayed for giving her chance to rectify her character. That Smt. Nath has very little regard for truth shall appear from her deposition before this Tribunal where she stated that no chargesheet was issued upon her before termination of her service.

10. The union urged before this Tribunal that the management was not justified in terminating her service without holding a departmental enquiry. It is settled law now that the departmental enquiry is a meaningless formality when the charges levelled against the workman is unequivocally admitted. In the instant case, the charge having been admitted unequivocally by the concerned workman, there was no need for holding any departmental enquiry and the disciplinary authority was accordingly justified to take steps for imposition of punishment upon her. Reference also be made in this connection to the union's case in its written statement in the matter. The workman in this case even went to the extent of denying that she ever produced any school certificate. The management has produced the school leaving certificate which is marked Ext. M-12 in this case. This was appended to the application dated 19-12-88 marked Ext. M-3. The concerned workman in her evidence denied that she produced any such certificate or any such application, though she admitted that she signed in the application (Ext. M-3). The union in its written statement, however, stated that she submitted a school leaving certificate on 14-12-1988, but the school leaving certificate as produced by the management before the Tribunal was not the same certificate as produced by her before the management. This case of the union was not supported by the concerned workman in her evidence.

11. Management of Calcutta Port Trust, therefore, on the basis of the above evidence on record has succeeded in proving that the concerned workman Nifal Rani Nath had produced a false school leaving certificate for which she was chargesheeted and she admitted that guilt unequivocally in her reply to the same. I have already stated that the management had not committed any wrong in not holding an

enquiry proceeding as it decided to punish the concerned workman on the basis of such admission. The concerned workman also admitted her guilt before the appellate authority as it will appear from her application for reconsideration of her case vide Ext. M-8. The appellate authority considered her case and upheld the findings of the disciplinary authority. Submission of false certificate to the employer amounts to gross misconduct and the order of termination from service in such cases cannot be held to be unjustified. The appellate authority, however, sympathetically considered her case and gave her fresh appointment as a female attendant in the medical department. The concerned workman accordingly has not any reason to make any grievance against the management of the Calcutta Port Trust.

12. So, upon careful consideration of the facts, circumstances, evidence on record and the position of law in this matter, I am to hold that the management of Calcutta Port Trust was fully justified in terminating the service of the concerned workman Nifal Rani Nath on 7-12-1990. The workman accordingly shall not be entitled to any relief in this case.

This is my Award.

Dated, Calcutta,

The 22nd September, 1999.

A. K. CHAKRAVARTY, Presiding Officer

नई दिल्ली, 12 अक्टूबर, 1999

कां०शा० 3206 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में ली मुइरहेड लि०, मैजी के शिप्पींग लि०, मै० रिप्ले एण्ड कं० लि०, मै० कलकत्ता शिप्पींग ब्यूरो प्रा० मै० वाटर ट्रेडिंग कॉर्पोरेशन के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बलकत्ता के पंचाट की प्रकाशित करती है, जो केन्द्रीय सरकार को 11-10-99 प्राप्त हुआ था।

[नं० एन-32011/2/96-आई डायर (निबंध)]

बी०एम० डेविड, अवर सचिव

New Delhi, the 12th October, 1999

S.O. 3206.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s Leo & Murhead Ltd., M/s G. K. Shipping (P) Ltd., M/s Ripley & Co Ltd., M/s Calcutta Shipping Bureau & M/s Water Trading Corpn. and their workman, which was received by the Central Government on 11-10-99.

[No. L-32011/2/96-IR(Misc.)]

B. M. DAVID, Under Secy.

## ANNEXURE

नई दिल्ली, 12 अक्टूबर, 1999

CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL AT CALCUTTA

Reference No. 25 of 1996

## PARTIES :

Employers in relation to the management of  
M/s. Lee & Muirhead Ltd.,  
M. s. G. K. Shipping (P) Ltd.,  
M/s. Ripley & Co. Ltd.,  
M/s. Calcutta Shipping Bureau,  
M/s. Water Trading Corpn.

## AND

Their workmen.

## PRESENT :

Mr. Justice A. K. Chakravarty,  
Presiding Officer.

## APPEARANCE :

On behalf of Management : None.  
On behalf of Workmen : None

STATE : West Bengal.

## AWARD

By Order No. L-32011/2/96-IR (Misc.) dated 14-8-1996 the Central Government in exercise of its powers under section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of M/s Lee & Muirhead Ltd., M/s G. K. Shipping Pvt. Ltd., M/s. Ripley & Co. Ltd., M/s Calcutta Shipping Bureau, M/s Water Trading Corporation and M/s United Trading Corporation in stopping employment of 157 workmen w.e.f. 1994 without payment of compensation notice pay as per Section 25F of the I. D. Act is justified ? If not, to what relief the workmen are entitled ?”

2. None of the parties appear today on call. It appears from the order dated 19-8-1999 that last chance was given to the union to file its written statement. In spite of the said order the union does not make its appearance, nor has taken any step in the matter. It is therefore clear that the parties are not interested to proceed further in the matter.

3. In the aforesaid circumstances, this Tribunal has no other alternative but to pass a “No Dispute” Award in the matter as no material is available before it for decision in respect of the schedule under reference.

4. A “No Dispute” Award is accordingly passed and the reference is disposed of.

This is my Award.

Dated, Calcutta,  
The 29th September, 1999.

A. K. CHAKRAVARTY, Presiding Officer

का०आ० 3207 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कलकत्ता पोर्ट ट्रस्ट के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कलकत्ता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-10-99 को प्राप्त हुआ था।

[सं० एल-32012/1/96-आई आर (विविध)]

बी०एम० डेविड, अवर सचिव

New Delhi, the 12th October, 1999

S.O. 3207.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Calcutta Port Trust and their workman, which was received by the Central Government on 11-10-99.

[No. L-32012/1/96-IR (Misc.)]

B. M. DAVID, Under Secy.

## ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL AT CALCUTTA

Reference No. 18 of 1996

## PARTIES :

Employers in relation to the management of  
Calcutta Port Trust

## AND

Their workmen.

## PRESENT :

Mr. Justice A. K. Chakravarty,  
Presiding Officer.

## APPEARANCE :

On behalf of Management : None.  
On behalf of Workman : None

STATE : West Bengal.

INDUSTRY : Port.

## AWARD

By Order No. L-32012/1/96-IR (Misc.) dated 31-5-1996 the Central Government in exercise of its powers under section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

“Whether the action of the CPT management to arbitrarily change the designation from Lascar to Peon without issuing any official order and thus putting the individual to a substantial monetary loss, violating the terms and conditions of the duty hours of Lascar category framed in establishment

schedule is justified? If not what relief the employee concerned is entitled to?"

2. None of the parties appear today on call. It appears from the order dated 19-8-1999 that last chance was given to the union to file its written statement. In spite of the said order the union does not make its appearance, nor has taken any step in the matter. It is therefore clear that the parties are not interested to proceed further in the matter.

3. In the aforesaid circumstances, in the absence of any material what-so-ever for decision in respect of the schedule under reference, this Tribunal has no other alternative but to pass a "No Dispute" Award for disposal of the matter.

4. A "No Dispute" Award is accordingly passed and the reference is disposed of.

This is my Award.

Dated, Calcutta,

The 29th September, 1999.

A. K. CHAKRAVARTY, Presiding Officer

नई दिल्ली, 12 अक्टूबर, 1999

का०अ० 3208 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स डी.बी.एच. इंटरनेशनल लि० के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं० 1, मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-10-99 को प्राप्त हुआ था।

[सं० एल-31012/11/93-आई आर (विविध)]

बी०एम० डेविड, अवर सचिव

New Delhi, the 12th October, 1999

S.O. 3208.—In pursuance of Section 17 of the Industrial Disputes Act 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 1, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. DBH International Ltd. and their workman, which was received by the Central Government on 11-10-99.

[No. L-31012/11/93-IR(Misc.)]

B. M. DAVID, Under Secy.

#### ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT :

Shri Justice C. V. Govardhan, Presiding Officer  
Reference No. CGIT-2 of 1996

PARTIES :

Employers in relation to the management of M/s. DBH International Ltd.

AND

Their Workmen

#### APPEARANCES:

For the Management—Shri K. M. Shetty, Advocate.

For the Workmen—Shri S. R. Wagh, Advocate.

STATE :

Maharashtra

Mumbai dated the 21st day of September, 1999

#### AWARD

The Central Govt. by its order dt. 29-7-94 has referred the following dispute between the management of M/s. DBH International Ltd. and their workmen for adjudication by this Tribunal :—

"Whether the action of the management of M/s. DBH International Ltd. in retrenching the service of Shri S. B. Mahadik w.e.f. 28-4-92 is justified? If not, to what relief the workman is entitled?"

2. The averments in the Claim statement of the Union is briefly as follows :—The workman was in the service of Dadabhoy Hormasji & Sons Ltd., a customs clearing and forwarding agency at Eombay. The said company was taken over by the management of DBH International Ltd. in the year 1986. The staff members including the workman continued their service with the company namely DBH International. The management was not happy with its employees who continued to be the members of the union. The management was therefore, orally pressurising its employees to disassociate them from the union. The employees refused to comply with. In the month of Feb '90 the company forced the workman to sign resignation letters and offered them voluntary retirement benefits. It was not discussed with the union. The employees signed the resignation letters on account of the threat made by the company put on the same day they rushed to the union office and informed the same. The union filed a complaint with the Regional Labour Commissioner (Central) Mumbai. The dispute was resolved and all the employees including the workman was allowed to withdraw their resignation. Some time later the company retrenched 7 out of a total 10 employees w.e.f. 16-9-91. The workman and 2 others continued in service. The workman was retrenched w.e.f. 28-5-92. It is illegal and unjustified, since the company has not prepared a seniority list and exhibited the same before ordering retrenchment of the employee. Mandatory provisions of Section (25F) of the I.D. Act have not been complied with. Therefore, retrenchment become in operative and illegal. The compensation offered is an incorrect amount. It was a short payment. The union therefore, prays that the retrenchment of the workman is irregular and illegal and a direction may be given to reinstate the workman in service with retrospective effect from 28-4-92 with full back wages and continuity of service.

3. The management in their written statement contends briefly as follows :—In the year 1986 the name of the company was changed from Dadabhoy Hormasji & Sons Ltd. to M/s. DBH International Ltd. The alle-



gation that the previous company was taken over by the DBH International Ltd. is not correct. From around 1989 due to the Import and Export policy of the Govt., imports are drastically restricted and the business of the employer became reduced. The employer therefore offered Voluntary resignation scheme for the employees in the year 1990. Six staff members offered to resign. Some other objected to the scheme and made a complaint to the Labour Commissioner. Following discussions with the Labour Commissioner, the scheme was withdrawn. The six persons who have accepted the scheme have accepted the dues. The business continued to decline. Therefore, in the month of August 1991 the income was not even sufficient to pay the wages of that month. There was also no chance of improvement in the business, therefore, the employer decided to reduce the strength of the staff in September 1991 and retrenched 7 staff members from 16-9-91. They declined to accept the dues and resorted to obstructive tactics. They had threatened the other staff from carrying on the duties. The remaining staff therefore, gave in writing in 18-9-91 their inability to work on account of the threats. The employer was obliged to pass the work in hand to outside parties and cease functioning from 16-9-91. It discontinued the business from 16-9-91 and allowed the Customs House licence to expire. The appropriate govt. being the State Govt., this tribunal has no jurisdiction to entertain this dispute. This Tribunal cannot travel beyond the terms of the reference. Based on the demand made by the union on behalf of the workman the area of the dispute between the parties has been correctly determined by the Govt. and the reference has been made. The tribunal has to confine itself to the order of reference alone. The reference is not supported by any other substantial number of ground of workmen. The reference under Section 10 under the I.D. Act is error of law and is invalid.

4. The retrenchment of 7 workmen on 16-9-91, the earlier voluntary resignation scheme and the termination of the service of the worker Mr. Mahadi on 28-4-92 are all bonafide action taken in the interest of the business. The order of termination issued to Mr. Mahadik, though termed as a retrenchment is an order arising out of the discontinuation of the business of the employer.

Following the retrenchment of 7 staff the remaining 3 were Customs clerks, Dock clerk and Godown keeper who is the workman herein. All three have given in writing that due to intimidatory tactics adopted by the retrenched staff they will not be able to work and the work on hand should be passed on to somebody else. The employer was therefore, compelled to pass on all the work to some other Clearing Agent. The work on hand was decided to be handed over to other parties. It was decided to dispense with the service of the remaining staff and the decision was communicated to the 3 clerks. The Dock clerk and the Customs Clerk offered to resign; but the Godown keeper namely the workman insisted for a written termination order. It was under the above circumstances the written termination order was given to the workman. The allegation that the workman was illegally and unjustifiably terminated is not correct. The impugned

termination is arising out of closure of business and not retrenchment as contended by the union. The dock clerk and the customs clerk are seniors to the workman herein and they have offered to resign. Therefore, there is no question of preparing any seniority list in the criteria of clerks. The impugned termination is governed by section 25 (fff) of I.D. Act and therefore compliance of Section 25-F does not arise. The reference is not maintainable and is liable to be dismissed.

4. The Union has filed a rejoinder reiterating their earlier stand in the Claim statement.

5. On account of the stand taken by the management in their written statement that the appropriate government is not the Central Govt. and this tribunal has no jurisdiction, my learned predecessor held an enquiry and passed a Part-I Award on 31st March 1997 holding that the Central Govt. is the appropriate govt. for this dispute and the union is entitled to dispose the dispute and this tribunal has jurisdiction to examine the legality or otherwise of the retrenchment of the workman.

6. The point for consideration is whether the termination of the service of Mr. Mahadik w.e.f. 28-4-92 is a case of retrenchment and whether it is legal and justified. If not, to what relief, the workman is entitled to?

#### The Point :

My learned predecessor has passed the Part-I Award holding that the Union is entitled to espouse the dispute and this tribunal has jurisdiction to examine the legality or otherwise of the retrenchment of the workman. Then the employer has taken a stand that it is not a case of retrenchment but it is a case of closure of the business and therefore, the reference has to be answered accordingly. The learned counsel appearing for the employer has contended that Ex. M-5, the Company's letter dt. 26-9-91 to the Conciliation Officer would show that the business has dwindled and it has resulted in the closure of the company itself by referring to the gross earnings and net earnings from the year 1990 April to 1991 July. The figures no doubt show that the gross earnings as well as the net earnings as given from April '90 to July '91. But it is stated in the said letter it was with receipt to the subject regarding the dispute of retrenchment of 7 employees. The penultimate and ultimate paragraphs show that retrenchment has been sought by the employer and the said letter does not give room to hold that the management has decided to close the business as such. MW-1 the Manager of the company has stated in his affidavit that while terminating the services, the term 'retrenchment' was used without knowing its actual impact and termination is actually a termination arising out of closure of business which took effect from 16-9-91 itself. During cross-examination he has stated that the company is still existing but there is no business in the company. At a later stage of the cross examination he has stated that it is not true to say that the version that the business was closed in 1992 is an after thought. The learned counsel appearing for the workman has argued that discontinuance of business and closure of business are two different aspects in that in the formal case there is no



necessity to inform the Government while in the case of a closure the government has to be informed. The management is not in a position to say whether it was discontinuation of business or a closure. But it can be inferred from the order of the Professional Tax Officer dt. 15-8-95 which is to the effect that the certificate of Registration granted to M/s. DBH International Ltd. is cancelled w.e.f. 1-9-92 as the employer has ceased to be and employed due to business closure. The notice issued by the Collector of Customs dt. 22-11-94 is to the effect that the licence issued by the Customs Collector was valid upto 31-12-93 and it has been made non-operative with immediate effect as the CHA failed to submit their licence renewal. From these documents it is seen that the Company's stand is that it has been closed. The learned counsel appearing for the employee has brought it to the notice of the Tribunal that when the company is closed application for permission to close down the same has to be submitted in triplicate to the Govt. in Form-QB and it is a mandatory provision and it has not been complied with by the company herein and this itself would show that it is a case of retrenchment. The learned counsel has also drawn the attention of this Tribunal to the notice sent by the company in Form F. It has been filed before this Tribunal and marked as Ex-M-6 dt. 28-4-92. Mr. Wagh would contend that this form itself would show that the company has only retrenched the workman and intimated the same to the Govt. and their case that the business has been closed for the time being with the hope of improvement in future is only an after thought. The documents referred earlier would show that there is some force in this argument of the learned counsel appearing for the workman. The learned counsel appearing for the management would argue that closure need not be permanent and irrevocable and the intention of the bonafides of the employer are relevant to decide whether it was a case of closure and the letter addressed by the company to the Conciliation Officer would itself show that the business has dwindled and therefore, the management has decided to close the business. We have already seen that the said stand taken by the management is not tenable in view of the recitals in the said documents. The claim of MW-1 that he was a layman having no legal knowledge and terminology in legal terms has used the word "retrenchment" in the order issued to the workman and it cannot be taken advantage by the employee is not convincing. It is not only with regard to the payment of retrenchment compensation which is mentioned in the said order issued to the workman which can be taken notice by this tribunal but the fact of issuing notice to the Govt. has also to be considered. The order dt. 27-4-92 specifically recites the heading as retrenchment and it is also stated in the said letter that having considered the matter seriously on all angles the management has come to the conclusion that his services should be retrenched with immediate effect. This order dt. 27-4-92 gives figures which has been paid to the workman, notice pay, retrenchment compensation, gratuity leave salary and salary for the month of April upto 27th day. When we take the entire document dt. 27-4-92 by which the service of the workman has been terminated and the notice issued by the company to the govt. informing the retrenchment of one out of the three of their employees, the claim of MW-1 that for want of

legal knowledge and legal terminology he had used the word retrenchment cannot be accepted.

7. The learned counsel appearing for the workman would argue that if it is a case of closure, there is no necessity for a Manager to continue in the said post and the evidence of MW-1 itself shows that the company is in existence and there is no evidence that the business has been stopped and in those circumstances the version of the management that it is a case of closure has to be rejected. As I have already observed, the management is not able to take a definite stand whether it is a closure or discontinuance or stoppage of business in view of their notice to the Government and in view of the failure to renew the licence. But the evidence of MW-1 is to the effect that it is a case of closure which stands condemned in view of his own admission that the company is still existing.

8. An attempt has been made by the company by contending that due to the threat meted to the three employees after retrenchment of 7, the three clerks have given it in writing on 18-9-91 that it will not be advisable to handle the document under the prevailing circumstances in tense situation and they have asked for necessary alternate arrangements be made. According to the management in pursuance of this letter only it was decided to retrench the workman herein who is in the Seniority list as the third person and the other 2 have expressed their desire to resign by the end of April '92. The notice dt. 20th April 1992 has been relied by the management in which the seniority list is mentioned. In this notice also it is stated that in the cadre of godown keeper Mr. Mahadik is the only staff and the retrenchment arises out of ceasing to function and as such amounts to closure. The notice no doubt shows the seniority list of the Clerks of which Mahadik is the junior most. This notice also shows that the Junior most is being retrenched as the remaining to have expressed their desire to resign. It is not as if the services of Mr. Mahadik is put an end to, on account of the closure of the business. It is seen from the above materials that the stand taken by the management that it is a case of closure and not retrenchment has to fail.

9. It is the case of the workman that the retrenchment is not in accordance with the statutory Provisions of Section 25(f) of the I.D. Act. According to the workman the compensation paid towards retrenchment is short of the amount due to him. The learned counsel appearing for the management has contended that on realising that the payment towards retrenchment compensation was actually short of the amount due to him, an offer has been made to pay the balance as per the order of the tribunal and therefore, the version of the management that the retrenchment compensation paid is not correct, has to be rejected. The learned counsel relies upon the decision of the Bombay High Court reported in 1990 1 LLJ page 208 and would contend that the calculation made by him with regard to the amount payable was a mistake when he calculated the wages for 30 days instead of 26 days and when it was realised, the company has offered to pay the amount and therefore, it cannot be stated that the compensation has not been paid correctly and there is non-compliance of Section 33(2)(b) of the I.D. Act. The learned counsel appearing for the workman on the

other hand argued that in the decision relied by the learned counsel appearing for the workman it has been held that if there is a bona fide mistake either of fact or law pertain to the mandatory requirements of the statute then the employer who rectifies the mistake on the earliest available opportunity and deposits the amount of shortfall is to be deemed to have substantially complied with the Provisions of the statute. The learned counsel stresses that the Bombay High Court has stated in the above decision that the mistake has to be rectified at the earliest available opportunity and the amount of shortfall has to be deposited in the Court, in order to hold that there is a substantial compliance of the Provisions of Section 33(2)(b) while in the case on hand the deposit was made very belatedly and therefore, it cannot be stated that there is a substantial compliance of the statute. As per the evidence of MW-1 they came to know of the shortfall when the claim statement of the workman filed in March '96 was received by them. It is also admitted by MW-1 that the management has offered the full compensation after the orders of the tribunal dt. 2-2-97. He also admits that he does not remember the date or the month when the amount was offered. At any rate the offer was made only after 02-2-97 when the shortfall in payment of the compensation has come to the knowledge of the management even in March '96. It cannot be stated that the management has rectified the mistake at the earliest available opportunity and deposited the shortfall in Court in order to hold that there is substantial compliance of Section 33(2)(b) of the I.D. Act. Therefore, there is a non-compliance of the Provision of the Section 25-F of the ID Act and retrenchment of the workman without complying with the provision of the Section 25-F of the I.D. Act is, therefore, to be held as not legal and not justified.

10. The learned counsel appearing for the management would argue that the company cannot be compelled to run the business and it is not run for the present. The evidence of MW-1 shows that the company was running at loss and they have not renewed the licence. It also shows that the clearing and forwarding work on hand were entrusted to other parties. This evidence of MW-1 during Chief-examination has not been challenged by the cross-examination. When the company is not actually carrying on the Clearing and Forwarding work no purpose would be served by an order reinstating the workman who is a godown keeper and who has been retrenched illegally. The learned counsel appearing for the workman has also argued that the workman may be awarded a compensation of back wages from the date of termination to the date of the award. I am of opinion that this argument of the learned counsel appearing for the workman being a practical one which would not cause any prejudice to any one, it can be accepted and the management may be directed to pay the back wages due to the workman from the date of retrenchment till the date of retrenchment till the date of this award. I hold on the point accordingly.

In the result, an award is passed holding that the action of the management of M/s DBH International Ltd. in retrenching the service of Mr. Mahadik with

effect from 28-4-1992 is not justified. The management is directed to pay the back wages from 28-4-92 i.e. date of retrenchment till date viz. the date of Award to the workman.

An award is passed accordingly.

C. V. GOVARDHAN, Presiding Officer

नई दिल्ली, 15 अक्टूबर, 1999

कां.सं. 3209 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कोयलारी डोलोमाइट साईट पर श्री अशोक कुमार सारस्वर के प्रबंधन के संबंध निगोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-10-99 प्राप्त हुआ था।

[सं. एल-29011/27/91-आई.आर. (विधि)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 15th October, 1999

S.O. 3209.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Koylari Dolomite Mine of Shri Ashok Kumar Saraswar and their workman, which was received by the Central Government on 12-10-99.

[No. L-29011/27/91-IR(Misc.)]

B. M. DAVID, Under Secy.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

CGIT/LC/R/111/91

The President,

Zila Dolomite Mazdoor Sangh,

PO Tirodi,

District Balaghat.

Applicant.

Versus

Shri Ashok Kumar Sarswar,

Proprietor,

Koylari Dolomite Mines,

PO Tirodi, Balaghat.

Non-applicant.

#### AWARD

Delivered on this 30th day of September, 1999

1. The Government of India, Ministry of Labour vide Order No. L-29011/27/91 dated 30-5-91 has referred the following dispute for adjudication by this Tribunal:—

"Whether the demand of 121 workmen represented by Zila Dolomite Mazdoor Sangh, PO Tirodi, District Balaghat for continuity of service at Koylari Dolomite Mine of Shri Ashok Kumar Saraswar, Proprietor, PO Tirodi, District Balaghat, MP w.e.f. 9-10-90 since when they had abandoned work till the date they resume duties at mines is justified and legal? If so, to what relief they are entitled?"

2. The names of the following 121 workmen has been shown in Annexure-I sent with the reference :

1. S/Shri Ramganesb Brij.
2. Poshanlal Zadoo.
3. Sunita Mohitram.
4. Jano Ramganesb.
5. Ramganesb Jivanlal.
6. Bharat Dhukhu.
7. Tijoo Prabhu.
8. Rohidas Kawalsingh.
9. Alasiram Tiju.
10. Pirbati Bharat.
11. Cha-in-nbai Tiju.
12. Phoolo Rohidas.
13. Suhaga Alalram.
14. Arunkumar Rohinsingh.
15. Rajim Arunkumar.
16. Radheshyam Pinde.
17. Pubai Radheshyam.
18. Alakhram Jirakhan.
19. Sagani Alakhram.
20. Inderbai Jageshwar.
21. Sukal Nandin.
22. Gendlal Giradhari.
23. Sewati Sukar.
24. Gaitari Gendlal.
25. Pokhan Foolsingh.
26. Usha Poshanlal.
27. Sakharam Bisram.
28. Farkan Sakharam.
29. Ganesh Saghuram.
30. Gulababai Ganesh.
31. Dularu Godhan.
32. Mangloo Hiroo.
33. Bhagwansingh Suku.
34. Pramila Mangluram.
35. Drupata Bhagwansingh.
36. Gangaram Anjora.
37. Deosingh Bajwan.
38. Ganpat Rairam.
39. Dwarka Ramkishan.
40. Shishoopal Bhagaat.
41. Kiwal Jailal.
42. Telsingh Kashiram.
43. Surendra Dhansingh.
44. Tukaram Bahorsingh.
45. Biselal Milloo.
46. Shivram Anjorsingh.
47. Zulchand Mehtaroo.
48. Gajoo Birsingh.
49. Rambai Gangaram.
50. Inderbai Shivram.
51. Mina Deolsingh.
52. Memin Ganpat.
53. Suhana Foolchand.
54. Sakun Telsingh.
55. Anand Kewalsingh.
56. Jagan Chamraram.
57. Sugnara Arjun.
58. Basanti Anand.
59. Hirabal Sugnara.
60. Ramari Jagan.
61. Dewarsingh Dhonu.
62. Lilaram Hirasingh.
63. Binda Dewarsingh.
64. Uinit Taturam.
65. Arjun Ramji.
66. Kumar Unit.

67. Krishna Shanker.
68. Mohanlal Mehtar.
69. Kheduram Binzuram.
70. Gajadhar Lalloram.
71. Nagina Molhanlal.
72. Suniti Kheduram.
73. Asaram Bherose.
74. Anand Sudharan.
75. Deoki Anand.
76. Nidmala Assaram.
77. Palturam Bisru.
78. Ganesh Bisram.
79. Dukhiya Paltram.
80. Khilawan Mahangu.
81. Moharsingh Kitanu.
82. Mina Moharsingh.
83. Chumanbai Khilawan.
84. Suman Mzanukhan.
85. Dhansingh Bhagwa.
86. Tiju Dularsingh.
87. Memin Tirju.
88. Kuwariya Lubhan.
89. Dropati Bhansingh.
90. Anurodh Narayan.
91. Mohan Narayan.
92. Bharat Tulsi.
93. Hidra Chandu.
94. Dudhe Jethu.
95. Sushila Saurodh.
96. Sohadra Bharat.
97. Chandikla Dudhe.
98. Sikha Hira.
99. Kansuram Umedi.
100. Bhukhru Umedi.
101. Sonsir Kansuram.
102. Jainbai Bhakhru.
103. Krishna Boharan.
104. Daitimeran Antaram.
105. Kanhaiya Ghasiram.
106. Adharsingh Ramprasad.
107. Kamla Krishnaram.
108. Mina Adharsingh.
109. Dayalu Sumrudas.
110. Bhuneshwar Dhaniram.
111. Bisesar Saguru.
112. Jiwallal Ramdayal.
113. Mannulal Methuram.
114. Bisahin Dayalu.
115. Raimun Bhuneshwar.
116. Nisazra Bisesar.
117. Lubhan Mannulal.
118. Bhikam Nawal.
119. Remlal Mahadev.
120. Rajmat Bhjikam.
121. Chaiti Ramlal.

3. The Union was directed to produce evidence on 2-4-96, 17-5-96, 22-6-98, 19-8-98, 16-10-98, 14-1-99. In spite of so many opportunities given to the Union, they had not produced evidence in the court and they further prayed for time to produce evidence on 24-3-99. This opportunity has also not been availed by the Union. Thus, the Union has not produced evidence in support of their contention in this court.

4. The case of the Union is that about 300 employees are working in the Dolomite Mines of the management, these employees were neither prayed adequate wages nor given facilities. The management has also not prepared form B and form C. Attendance registers are also not maintained in a proper manner. The whole effort of the management is that no employee should be shown to have worked for

240 days or above and thus deprive the employees of their legal rights. There is another Silika Mine of the brother of the present management and this management used to rotate employees from Dolomite mine to Silika Mine. Thus the employees were deprived of their legal rights by both the mines. According to Union in the Dolomite Mine, the present workman are working continuously since last 3 years. In spite of it, their services were terminated from 9-10-90. Prior to termination of service notice of retrenchment and retrenchment compensation were not paid to any of the workman. Thus the management has violated Section 25-F of the ID Act. These workers are entitled for wages from the date of termination. The management is resorting to unfair labour practice. The Union wants re-instatement of the 121 workmen and full back wages.

5. The case of the management is that the Dolomite Mine is an open cast mine and work in the said mine is not performed continuously. The mining operation in this mine is of a seasonal character. The labour is employed for brief periods and this labour is rotating. The labour employed by the management goes to another mine when the work is not available with the management. Because the labour is changing, hence high percentage of absenteeism. None of the 121 labourers has completed 240 days of work in a calendar year in Dolomite Mine. The 121 workman has not come to work from 9-10-90 out of their own free will. The contention of the Union is false that the management has terminated the service of the workman from 9-10-90. The union cannot claim the advantage prayed for as they have no case.

6. As stated above, the Union has not examined any witness to prove their contention. The burden of proving allegations was on the Union. They have miserably failed to prove the charges against the management.

7. The management has examined Shri Sukhlal Sev Supervisor of the Dolomite Mine. He has been cross examined by Advocate of the management in the court. From his cross examination, the facts asserted by the Union stand disproved. Thus the management has negatived the allegations of the Union.

8. The Union has not cared to prove their case. They have neither filed any document in support of their case nor examined their witness to prove their stand. In fact the Union has withdrawn themselves from this case in this court. In such a situation, the Union is not entitled to any relief.

9. The award is given in favour of the management. The Union to pay Rs. 5000 as cost to the management for this litigation.

10. Copies of the award be sent to the Ministry of Labour as per rules.

D. N. DIXIT, Presiding Officer

नई दिल्ली, 11 अक्टूबर, 1999

का.अ. 3210 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार तंगभद्रा ग्रामीण बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अन्वय में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, बंगलूर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-10-99 को प्राप्त हुआ था।

[सं. एल-12012/117/93-आई आर (बी-1)]

जी. राय, डेस्क अधिकारी

New Delhi, the 11th October, 1999

S.O. 3210.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the award of

the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Tungabhadra Gramin Bank and their workman, which was received by the Central Government on 11-10-1999.

[No. L-12012/117/93-IR(B-I)]

G. ROY, Desk Officer

## ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 1st October, 1999

#### PRESENT :

Justice R. Ramakrishna,  
Presiding Officer.

C. R. No. 43/93

#### I PARTY :

K. Sheshagiri Rao,  
C/o The President,  
Tungabhadra Gramin Bank  
Employees Union, No. 144,  
Kappagal Road,  
Bellary-583103.

#### II PARTY :

The Chairman,  
Tungabhadra Gramin Bank,  
Head Office,  
Sanganalkal Road,  
Gandhinagar,  
Bellary-583103.

#### AWARD

1. The Central Government by exercising the powers conferred by clause (d) of Sub-section (1) and Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12012/117/93-IR(B-I) dated 22/29-7-93 for adjudication on the following schedule

#### SCHEDULE

"Whether the action of the management of Tungabhadra Gramin Bank in terminating the services of Shri K. Sheshagiri Rao, Ex-Clerk w.e.f. 2-7-92 is legal and justified? If not, to what relief the workman is entitled to?"

2. The I party was terminated from service after conducting a Domestic Enquiry on the allegation of Charge Sheet dated 27-6-89 (Ex. M-6). The charges are that he has claimed for reimbursement of Medical/Hospitalisation expenses incurred due to Hospitalisation of his wife in K.M.C. Hospital, for a sum of Rs. 1465.32 which also included an expenditure for Taxi charges for carrying his wife from Kopal to Hubli for Rs. 600/-. According to the II party this workman indulged in claiming more

amount than the amount actually spent both in respect of medicine and Taxi charge.

3. Under Charge No. 2 the allegation contained in Charge No. 1 was repeated and a statement was appended to show that he has attested/inflated the amounts in Medical bills to the extent of Rs. 420/-. It appears that this workman accepted the guilt and in spite of that the management conducted a Domestic Enquiry by examining a Clerk, an Officer and an Inspecting Officer. According to the Enquiry Officer the charges are proved by making admission and also by the evidence.

4. Infact, earlier to this, another Domestic Enquiry was initiated against this workman on the allegation of a charge enumerated in Ex. M-1 dated 30-7-88. The charges contained in this charge sheet was quite serious. The first charge related to not noting the particulars of 3 demand drafts in the concerned register. The second charge was failure to ensure the dual control of the Security items in the double lock keys of the safe along with Storewell keys. The third charge is that the Storewell used to remain open right from the time of opening the branch till its closure. Where the security items were kept there. The fourth charge was missing of an encashed DD for Rs. 25,000/-.

5. A Domestic Enquiry was conducted on the above charges where the Manager was also implicated and a separate charge sheet was issued to him. After contest the Management have imposed the following punishment :

“Charge No. 1 : Degradation to initial stage in the employee's incremental scale i.e. degradation to Rs. 900/- basic pay.

Charge No. 2 : Stoppage of 2 increments with cumulative effect.

Charge No. 3 : Stoppage of 2 increments with cumulative effect.

Charge No. 4 : Recovery of 50 percent of Rs. 25,000/- with interest at 17.5 percent from 2-1-88.”

6. The above facts are not disputed.

7. This Tribunal framed a Preliminary issue to give a finding on the validity of Domestic Enquiry. The Management examined two Enquiry Officers to justify the fairness of the respective enquiries. The workman was also examined himself and his evidence is a very much limited. He has confined mostly on the charge sheet dated 27-6-89 which relates to claiming Medical reimbursement. We gave a finding in favour of the Management in respect of both enquiries.

8. When it reached the stage of deciding the merits of the case, Sh. P.S.S. the learned advocate for the II party has the submission of the learned advocate for the I party as it relates to the first charge sheet dated 30-7-88. According to Sh. P. S. S. that it is an individual dispute raised by this workman under Section 2A of the Industrial Disputes Act which he can raise only with regard to the Order of

the Termination, but as it regards to the punishment other than termination made on the I party he has no loco-standi to question in this case as that type of punishment has to be espoused by the Union, which is mandatory.

9. There is no quarrel over the proposition of law. The contention of the Sh. R. N. N. is when the management have resorted to give minor punishment to the alleged gross misconduct of the Charge sheet dated 30-7-88, the II party have exceeded their jurisdiction to consider the charges levelled in the second charge sheet are grave in nature which gave the jurisdiction of them to terminate the service of this workman.

10. Against this submission, Sh. P. S. S. the learned advocate for the II party has contended that inflating the amounts in a Medical Bill other than what is usually spect is a gross misconduct for which a punishment of dismissal is the appropriate order.

11. In the first charge, the Manager was also involved with equal culpability but there is no material of the punishment imposed to the Manager. Therefore there cannot be any impediment to hold that the authorities have passed lesser punishment on the first charge sheet only to accommodate the manager who was also similarly placed like this workman. I do not think we may reach a better conclusion than what is stated above.

12. Sh. R. N. N. submitted that the I party deemed to have been accepted the charges in the second charge sheet, but without admitting such situation, the Management are not justified in passing an order of removal for the first charge and imposing minor punishment to the first charge sheet.

13. There is considerable force in the submission on the learned advocate. This workman has contended in his Claim Statement that he was under going unbearable mental agony due to his suspension in the earlier charge sheet and during that period the condition of his wife has become serious and he has to take her in a Taxi from Koppal to Hubli which is about 300 kms. and there after he claimed Medical reimbursement which according to the management was inflated. He has also contended that he has been called to the Chamber of the Manager and advised him to accept the mistake to take a lenient view in the matter. This situation in the circumstances cannot be disputed.

14. If he has given a Medical Bill with inflated amounts it is opened in the scrutiny branch to disallow the claims which according to them it is inflated and permit to draw the amount which according to them is correct. We have to see that he has not received the amount said to have been inflated, it is at the stage of scrutiny of the bills, therefore, the management are not entitled to take this conduct as a gross misconduct under clause 19.5 of the Bipartite Settlement.

15. The report of the Enquiry Officer is also suffering from perversity as the relevant witness was not examined. According to them One Hanumesh was the driver of the Taxi who said to have been given a statement before the Investigation Officer that he has received Rs 460/- calculating at Rs. 1.40

per km. and Rs. 40 towards his allowance. The non-examination of the said Hanumesh is a factor to be considered that this allegation is not proved. The statement given by a party required to be proved by examining him unless it is shown that such a person is not alive or he cannot be secured. Therefore the Enquiry Officer has passed a perverse order which is lacking the legal evidence.

16. It may be said that this workman was already facing enquiry in the earlier charge sheet. Without there being any bias this Tribunal can definitely declare that all is not well even in respect of first charge sheet which is said to have been proved and this workman was asked to pay Rs. 25,000/- with interest on 17.5 per cent under fourth charge. Any how we are not giving any finding on the first charge sheet which is to be left at that stage only.

17. However, the II party are not justified to pass an order of removal on the alleged proof of the first charges of the second charge sheet. We have also gone through the representation of this workman as an appeal for mercy and lenient consideration, dated 1-8-92. Infact this workman high lighted how he has been implicated in these charges though he has not committed and sought for mercy by giving details of his family antecedents and the condition of his wife and Children.

18. Therefore, this tribunal has jurisdiction to examine this situation by invoking benevolent provisions contained under section 11A of the Industrial Disputes Act 1947. It is to be noted that introduction of this section is not a mere formality. The provision has to be applied with all seriousness after taking into consideration the facts and circumstances of each case. It is not a matter that the Tribunals are interfering with the findings of the Enquiry Officer's and thereafter by the Disciplinary Authority, but this is a jurisdiction which the tribunal is exercising independently by virtue of the experience it gained in deciding the cases of this nature. One cannot fold his hand and say that a workman was dismissed from service after a valid Domestic Enquiry. Therefore nothing can be done. There may be cases where such a stand can definitely be taken. But not in all the cases.

19. This case is a Model case where the harsh decisions of the Management can be scrutines to mould and to pass justifiable orders in a given circumstances.

20. In *R. N. Parmar v/s Gujarat Electricity Board*, Baroda reported in 1992 LAB IC 1031. His lordships M. P. Thakkar, the then Chief Justice, the court has given a celebrated judgement which deals with the punishment aspect and the other aspects of the matter where a workman though accepted the guilt can retract by giving reasons. His lordship dealt this matter at para 4 which is necessary to advert for proper appreciation.

"An employee facing a proceedings which could result in his economic death has a right to contest and resist it. He is not bound to admit the charges or to plead guilty in order to enable him to invoke the jurisdiction of the court u/s. 11A to reduce the penalty. No such condition was engrafted by the Legislature and the

Labour Court cannot amend the statute by introducing such a rider. That he is ultimately found guilty at the departmental proceeding does not necessarily mean that he was in fact guilty. But even if he is in fact guilty of the charge levelled against him, he has the right to invoke the powers of the Labour Court u/s. 11A for reduction of the penalty. The provision itself postulates a finding of guilt warranting a punishment recorded after a contest and empowers the Labour Court to reduce the punishment all the same. Claiming reduction of penalty is his right and not something for which the employee has to beg of the Labour Court on bended knees and folded hands.

Held, by insisting that the dismissed workman had to plead guilty for exercise of power u/s 11A the Labour Court had abdicated its jurisdiction altogether and scuttled the purpose and policy of the Legislature. The Labour Court was required to consider the question of reduction of penalty in accordance with law, having regard to the facts and circumstances of the case and uninfluenced by the circumstance that the concerned workman did not plead guilty."

21. With regard to the question of penalty his lordship high lighted in para 5 of the judgment as follows .

"When different categories of penalties can be imposed in respect of the alleged fault one of which is dismissal from service, the disciplinary authority perforce is required to consult himself for selecting the most appropriate penalty from out of the range of penalties available that can be imposed, having regard to the nature, content and gravity of the default. Unless the disciplinary authority reaches the conclusion that having regard to the nature, content and magnitude of the fault committed by the employee concerned it would be absolutely unsafe to retain him in service the maximum penalty of dismissal cannot be imposed. If a lesser penalty can be imposed without seriously jeopardising the interest of the employer the disciplinary authority cannot impose the maximum penalty of dismissal from service. He is bound to ask his inner voice and rational faculty why a lesser penalty cannot be imposed."

22. Since this Tribunal is able to find the perversity in the Order of the Enquiry Officer and also the punishment imposed by the management is excessive and shock the conscience of any prudent man, interference is absolutely necessary. In the result I make the following order.

#### ORDER

23. The II party are not justified in imposing the punishment of removal on the charges levelled in

the Charge Sheet dated 27-6-89. Due to the fact that the finding of the Enquiry Officer was perverse and the punishment is excessive. Therefore, the II party are directed to reinstate the I party immediately to the post he held at time of his suspension. There shall be continuity of service and this workman is entitled for backwages to the extent of 50 percent. The reference is answered accordingly.

(Dictated to the L.D.C., transcribed by him, corrected and signed by me on 1st October, 1999).

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 11 अक्टूबर, 1999

का. 3211 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसर्ण में, केन्द्रीय सरकार बैस्टन रेलवे, बॉम्बे के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-10-99 को प्राप्त हुआ था।

[सं. एल-41011/21/95-आई आर (बी-1)]

जी. राय, डेस्क अधिकारी

New Delhi, the 11th October, 1999

S.O. 3211.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Western Rly. Mumbai and their workman, which was received by the Central Government on 11-10-1999.

[No. L-41011/21/95 IR(B-I)]

G. ROY, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II

MUMBAI

PRESENT

SHRI S. B. PANSE

PRESIDING OFFICER

REFERENCE NO. CGIT-2/17 of 1997

EMPLOYERS IN RELATION TO THE MANAGEMENT OF DIVISIONAL MANAGER, WESTERN RAILWAY, BOMBAY

BOMBAY

The Divisional Railway Manager,  
WR Bombay Division,  
Bombay Central,  
Bombay.

AND

THEIR WORKMEN

The Divisional Secretary,  
Pashchim Railway Karmachari Parishad,  
32-A, Chappra Building, 1st Floor,  
R. K. Vaidya Marg,  
Near Plaza Cinema,  
Dadar (W),  
Mumbai 400 028.

APPEARANCES :

FOR THE EMPLOYER : Mr. Suresh Kumar Advocate.

FOR THE WORKMEN : Mr. M. B. Anchan Advocate.

MUMBAI, dated 21st September, 1999

#### AWARD

The Government of India, Ministry of Labour by its Order No. L-41011/21/95-IR(B-I), dated 11-3-97, had referred to the following Industrial Dispute for adjudication "Whether the action of the Railway Manager, Western Railway not granting the benefit of the pay fixation and the arrears in respect of the 17 workmen viz. Shri Vasant Shankar (SC), (ELF) ERB Gr. I and others with effect from the eligible date is justified or not? If not what relief should be granted :-

Sr. No.	Name	Designation
1.	Shri Vasant Shankar (SC)	ELF(TRB) Gr. I
2.	Shri Suryanarayan B Ahire	"
3.	Shri Tribhuban Singh	"
4.	Shri Rahimatali M.	"
5.	Shri Ram Baran R.	"
6.	Shri Harishchandra N.	ELF Gr. II
7.	Shri Zerihar Khirode	"
8.	Shri Sakharan R.	"
9.	Shri Kashiram Krishna	"
10.	Shri Sukha Jagroo	"
11.	Shri Harilal Bhagda	Khalasi/Helper
12.	Shri S. Natrajan	"
13.	Shri Samsubhaj B. Chavan (ST)	"
14.	Shri D. M. Perinarayan (SC)	"
15.	Shri N. M. Munuram Yadunath (SC)	"
16.	Shri Kaluram Prasad Ram Prasad	"
17.	Shri Vithoba N. Gore	"

2. The Divisional Secretary of Paschim Railway Karmachari Parishad, filed a statement of claim at Exhibit-4. The union submits that on the basis of the Railway Boards orders, the General Manager, Western Railway has passed order upgrading Artisan staff and Helper/Khalasis of the Track Bonding Section of the Electrical Traction (overhead) Department in the ratio of 50 : 10 : 40 (Skilled, Semi-skilled and Unskilled). As per the said ratio of 50, in the case of skilled category 20% were upgraded in the skilled Gr-I scale Rs. 380—480 and 55 per cent in the skilled Gr. III scale Rs. 260—400.

3. Accordingly out of the 17 employees concerned in the above reference 5 employees in the ELF skilled Gr. I and 5 employees in the ELF skilled Gr. II and 7 employees in the Helper Khalasis were upgraded with effect from 1-12-1978.

4. The Union further submits that even though the 17 employees posts were upgraded with effect from 1-12-1978 as per the Railway Boards order, the pay of the 5 employees at Sr. Nos. 1 to 5 to the order of reference were not fixed in the skilled Gr. I category of Electrical Fitter scale Rs. 380—560 and the pay of the employees at Sr. No. 6 to 10 in the skilled Gr. II category of Electrical Fitter Scale Rs. 330—480 and the pay of the 7 employees at Sr. Nos. 11 to 17 in the grade of Helper Khalasis scale Rs. 210 to 290 was not fixed from 1-12-1978. They were also not paid arrears of pay and allowances. Due to that they lost seniority and promotion.

5. The union submits that the post of 17 employees were upgraded w.e.f. 1-12-78. Further their pay was not fixed from that date and they were also not paid arrears of pay fixation. It is pleaded that as their pay was not fixed they lost the seniority and promotion. Their juniors who were promoted/upgraded were further provided a higher post and they were put to loss.

6. The union prayed that the action of the management is illegal and these 17 employees are entitled to pay fixation in the upgraded post and also arrears of pay and allowance from 1-12-78.

7. The management that is the Divisional Railway Manager, Western Railway Mumbai resisted the claim by the written statement (Exhibit-7). It is pleaded that railway is not an industry. It is averred that these employees are Civil Servants and governed by article-309 of the constitution. It is therefore they are not the workman within the meaning of section 2(s) of the Industrial Disputes Act. It is submitted that the employees who are likely to be affected by the present reference are not made parties. Under such circumstances the

reference suffers from non-joinder of necessary parties. It is averred that the reference suffers from laches as the claim which is made out is of the year 1978. It is therefore the concerned workmen are not entitled to any reliefs.

8. The management averred that these employees were not entitled to promotion against the upgradation of the post. The employees who are promoted against the upgradation post were entitled for the fixation of payment w.e.f. 1-12-78. It is submitted that the union had not shown the juniors who were promoted than the concerned employees. It is averred that under such circumstances these employees are not entitled to any reliefs as claimed.

9. The issues are framed at Exhibit-8. The issues and my findings there on are as follows—

Issues	Findings
1. Whether it is proved that the Tribunal has no jurisdiction to decide the reference?	No
2. Whether the reference suffers from laches?	No
3. Whether it is proved that the management had not granted the benefits of pay fixation and the arrears in respect of the 17 workers mentioned in schedule from their eligible dates?	Yes
4. If so, what relief they are entitled to?	As per order below.

#### REASONS

10. Mr. Suresh Kumar, the Learned Advocate for the management tried to argue that the railway is not an industry, the concerned employees are not workmen within the meaning of section 2(s) of the Industrial Disputes Act of 1947 and as such the Tribunal had no jurisdiction to decide the reference. It is well settled position and railway is an industry. So far as the employees are concerned they are workmen. There is no evidence on behalf of the management which go to show that they are not workmen within the meaning of section 2(s) of the Act. I may mention it here that in the written statement the Learned Advocate for the management had referred to different rulings and tried to submit that these employees being Civil Servants they cannot termed as the workman within the meaning of section 2(s) of the Act. He wanted to refer to the observations of Their Lordships in those judgments. But there are direct rulings wherein it is held that these type of employees are the workmen and railway is an industry. It can be further seen that those rulings which are referred to by management the railway was not an party. The cases were relating to post and telegraph. I therefore find that the Tribunal had jurisdiction to decide the reference.

11. It is tried to argue on behalf of the management that the reference suffers from laches. It because the relief is sought from the year 1978, in of the year 1997. It is argued that delay is not explained and as such they are not entitled to any reliefs. Jeevan Adhikari (Ex-12) affirms that these workmen were fighting the case since 1980 and since the railway administration did not upgrade the post the union approached Madhu Devlekar M.L.C. in the year 1983. Thereafter the General Manager had issued orders in upgrading the post in 1986. Exhibit-17 is the letter dated 24-1-86 written by N. K. Srivastava to Madhu Devlekar, M.L.C. He further affirmed that since the pay fixation of arrears of pay and allowances and seniority was not given the union approached the Assistant Labour Commissioner (Central) Bombay. In the cross-examination he states that they approached the Labour Commissioner in 1990-91. Thereafter it appears that the Labour Commissioner in its due course had send his report to the Ministry somewhere in 1995. I find this year on the basis of the number appearing on the order of reference (Ex-1). The ministry then referred this reference for adjudication on 11-3-97. These events clearly go to show that the concerned employees through their union were fighting for the reliefs. I do not find that there was delay on

their part to raise the dispute. It is not that if the relief is not given immediately they are required to approach the Assistant Labour Commissioner. It is normal practice that the union tried to solve their grievances approaching the management repeatedly and if their effort fails they approach the Labour Commissioner. I therefore find that there are no laches for raising the dispute.

12. Jeevan Adhikari (Ex. 12) had given details how these employees were not benefited but in the cross examination he deposed that he is not in a position to tell in which month the workmen were not given promotion. He is not in a position to tell from what month they are entitled for arrears. He is not in a position to tell from which date they want pay fixation and at last he said that these workmen received proper payment and proper fixation from the date of their promotion. The promotion was given on the basis of the seniority-cum-suitability. Adhikari appears to be shaky. Therefore, the union examined Ashram Rajput the earlier Divisional Secretary.

13. Rajput affirmed that Suryanarayan Ahir, Tribhvan Singh, Rehmat Ali were ungraded as ELP Grade-I scale Rs. 380—560 from ELP Grade-II scale Rs. 330—480 from 3-5-80, 11-9-80 and 2-8-82 respectively. On their place Harish Chandra N. Khirodkar and Krishna were upgraded as ELP Grade II from Grade III w.e.f. 3-5-80, 11-9-80 and 2-8-82 respectively. The seven helpers/Khalasis were upgraded from 10-8-86. He affirmed that these upgradation was not made from 1-12-78. Their pay was not fixed from that date. They were not paid arrears of pay and allowances and their seniority is also not fixed from that date. He further deposed that so far as the remaining four employees are concerned the union is not pressing their demand. It has reference to workmen Nos. 15, 8 and 10.

14. Even if the union had given up the case there is nothing on the record to show that they have intimated these workmen that they are not ready to proceed with their case and they can choose any other persons to represent their case. Under such circumstances I find that the relief which the other employees are entitled to get should automatically be received by them.

15. Exhibit-17 is the letter on which reliance was placed by Rajput and the union. It is mentioned there in that the upgradation was carried out on the basis of 50, 10, 40 per cent (skilled, semiskilled and unskilled) have also been promoted and paid their dues from 1-12-78 which includes staff of track bonding unit also. This letter was also written on behalf of General Manager of the Management to Devlekar M.L.C. It is pertinent to note that S. P. Singh (Ex. 22) Assistant Personal Officer in his Examination-in-Chief had referred to this letter but, he states that they are not in a position to trace out that letter from the DRMS office, Mumbai Central. He had further stated that the authenticity of the letter cannot be verified by them and he refers to true position which is contrary to that letter. I am really not in a position to appreciate the testimony of this witnesses. It is because he had to come forward and say that the contents of that letter are false or produced documentary evidence which he deposed will produced on the record which he did not. No doubt he produced service record of workman Nos. 1, 6 and 7 alongwith Ex. 25. But that is not sufficient. He relied upon the service record of all the concerned workmen. There was no difficulty for him to produce that record. But, he had not chosen to do so. Therefore adverse inference has to be drawn against him. It is material to mention it here that on Ex. 17 on page 2 names of 42 employees are given which were alleged to be upgraded. So far as first 10 employees are concerned they are bracketed. Then 11 to 35 are bracketed. Then 36—42 are bracketed. So far as 11 to 35 employees are concerned in the margin there is an endorsement in ink paid. This ink appears to be the same ink used by Srivastava who signed for General Manager. So far as the other employees are concerned and who are concerned in this present reference there is a sign "cross". Therefore it appears to me that the payment was not made. Further more there is no evidence to show that such a payment was made to them. That evidence is not produced before the Tribunal. The service record which is tried to be produced on the record does not support the case of the management.

16. It is not in dispute that the workmen who are at serial Nos. 1 to 10 are concerned are retired upto 1997. The workmen who are at serial Nos. 11 to 17 are concerned they



are in service. It is not in dispute that no juniors to them were promoted superseding their rights. I, therefore, find that what remains is the monetary benefit which they are entitled to get. They are entitled to this upgradation which they have made from 1-12-78 and the monetary benefit from that date. On the basis of upgradation they will not be entitled to promotions, superseding others who are promoted, who are not party to this reference.

17. It is pertinent to see that in the prayer clause of the statement of claim these concerned employees pray for fixation of pay in the upgraded post and also arrears of pay and allowances from 1-12-78. It is not in dispute that upgradation was to be made from 1-12-78 and these employees were entitled for upgradation. That finds place in the letter Ex. 17. I have already discussed above that there is no record produced by the management in respect of their payments. As this is so adverse inference is to be drawn against them. In the result I record my findings on the issues accordingly and pass the following order :—

#### ORDER

The action of the management of Western Railway not granting the benefit of pay fixation and the arrears in respect of the 17 workmen referred in the reference is not justified.

The management is directed to treat these 17 workmen for upgradation w.e.f. 1-12-78, fix their pay accordingly, pay them the arrears of pay and allowances deducting the pay and allowances already paid.

21st August, 1999.

S. B. PANSE, Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1999

का०आ० 3212 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल रेलवे, भोपाल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-10-99 को प्राप्त हुआ था।

[सं० एल-41012/49/91-आई आर (डी यू)/(बी-1)]

जी० राय, डेस्क अधिकारी

New Delhi, the 13th October, 1999

S.O. 3212.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Railway Bhopal and their workman, which was received by the Central Government on 12-10-99.

[No L-41012/49/91-IR(DU)](B-1)]

G. ROY, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT, JABALPUR (MP)  
PRESIDING OFFICER : SHRI D. N. DIXIT.  
CASE NO CGIT/LCIR/203/91  
Shri Raju Gour,  
Or. No. RB-II/293/C, Frem Nagar,  
Central Railway  
Itarsi  
Applicant

Versus

The Union of India through  
General Manager,  
Central Railway, VT &  
Divisional Railway Manager,  
Bhopal

Respondents

#### AWARD

Delivered on this 23rd day of September, 1999

1. The Government of India, Ministry of Labour vide order No. L-41012/49/91-IRDU dated 12-11-91 has referred the following dispute for adjudication by this tribunal—

“Whether the action of the Central Railway Bhopal in terminating the services of Shri Raju Gour S/o Shrikishan was justified? If not, what relief the workmen is entitled to?”

2. The case of the workman Shri Raju Gour is that he was appointed as a gangman by PWI Khandwa on 10-7-80. His service card no. was 879227 issued by PWI Khandwa. His services were terminated from 19-12-86 on the ground that this service card was bogus. The service card was not returned to the workman. Prior to termination of service show cause notice was not issued to the workman. The service card was issued to him by proper authority of the management. Prior to termination, chargesheet was not given to the workman and enquiry was not held. The workman has been medically examined soon after he was issued service card and a medical certificate dated 28-5-84 was issued to him. At the time of termination, the workman has put in about 6 years of service. The workman seeks that order of termination dated 17-12-86 be quashed and he be treated in continuous service. The workman also claims wages and allowances as per rule.

3. The case of the management is that the service card no. 879227 was forged and fake. The workman was given notice of termination on 19-10-86 while his services has been terminated with effect from 19-11-86. The management is justified in terminating the services of the workman. The services of the workman has been terminated because he obtained employment by producing fake/bogus service card.

4. The workman filed his affidavit to prove his case. He has been cross-examined by the Advocate for management. The workman has stated that on the basis of service card no. 879227 he got employment by the management. This service card was issued to him by PWI Khandwa. He admitted that the service card is essential to get employment in the Railways. His services has been terminated by PWI Itarsi.

5. The management has examined Shri J. Y. Joshi PWI Khandwa who stated that this office did not issue service card no. 879227 to any one. He further stated that the workman was never issued a service card.

6. The management examined Shri D. P. Patel PWI Khandwa who stated that the workman was not issued a service card. He further stated that service card no. 879227 was never issued.

7. Thus the management has proved that PWI Khandwa never issued service card to the workman. The management has further proved that service card no. 879227 was never issued by PWI Khandwa. The contention of the workman is wrong that he has been issued this service card by PWI Khandwa. The management established that the workman received employment on the basis of service card no. 879227 which was fake and bogus. Thus the termination of service of workman is legal and valid. The workman has no case.

8. The award is given in favour of the management. The action of the management is endorsed. Parties to bear their own cost.

9. Copies of the award be sent to the Ministry of Labour, Government of India as per rules.

D. N. DIXIT, Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1999

का०आ० 3213 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल रेलवे, भोपाल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-10-99 को प्राप्त हुआ था।

[सं० एल-41012/17/92-आई आर (डी यू)/(बी-1)]

जी० राय, डेस्क अधिकारी

New Delhi, the 13th October, 1999

S.O. 3213.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of DRM, Central Rly. Bhopal and their workman, which was received by the Central Government on 12-10-1999.

[No. L-41012/17/92-IR(DU)|(B-1)]

G. ROY, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT, JABALPUR (MP)

CASE NO. CGIT/LC/R/71/93

PRESIDING OFFICER : SHRI D. N. DIXIT.

Shri Prem Narayan,  
RBI-296-B,

Behind Railway Hospital, Applicant  
Purvi Colony,  
Bina, Distt. Sagar (MP)

Versus

The Divisional Railway Manager,  
Central Railway,  
Bhopal

Non-applicant

#### AWARD

Delivered on this 4th day of October, 1999

1. The Government of India, Ministry of Labour vide order No. L-41012/17/92-IRDU dated 22-3-93 has referred the following dispute for adjudication by this tribunal—

“Whether the action of the management of DRM, Central Railway, Bhopal MP in terminating the services of Shri Premnarayan Halkooram, Ex-Chowkidar w.e.f. 28-7-89 is justified? If not, what relief the workmen is entitled to?”

2. The workman remained absent continuously on 21-4-99, 21-6-99, 16-8-99 and on 1-10-99. It seems that the workman is not interested in pursuing the case. The award is passed in favour of the management.

3. Copies of the award be sent to the Ministry of Labour, Government of India as per rules.

D. N. DIXIT, Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1999

का०आ० 3214 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल रेलवे, भोपाल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-10-99 को प्राप्त हुआ था।

[सं० एल-41012/35/91-आई आर (डी यू)/(बी-1)]

जी० राय, डेस्क अधिकारी

New Delhi, the 13th October, 1999

S.O. 3214.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Railway Bhusawal and their workman, which was received by the Central Government on 12-10-1999.

[No. L-41012/35/91-IR(DU)|(B-1)]

G. ROY, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT, JABALPUR (MP)

PRESIDING OFFICER : SHRI D. N. DIXIT

CASE NO. CGIT/LC/R/208/91

Shri Dashrath Fattoo Gangman,

R/O Dategaon, PO Charwa,

Teh. Khirkiya,  
Distt. Hoshangabad

Applicant

Versus

The Union of India, through  
General Manager,  
Central Railway, VT Bombay and  
Divisional Railway Manager,  
Central Railway,  
Bhopal

Non-applicant

## AWARD

Delivered on this 22nd day of September, 1999

1. The Government of India, Ministry of Labour vide order No. L-41012/35/91-IR(DU) dated 12-11-91 has referred the following dispute for adjudication by this tribunal—

“Whether the action of the management of the Central Railway Bhusawal in terminating this services of Shri Dashrath Fattoo was justified? If not, to what relief the workman is entitled to?”

2. The case of the workman Shri Dashrath Fattoo is that he was working as gangman on a monthly rate of pay with all benefits from 1983. His service card was 307442 which was issued by PWI, Burhanpur, Central Railway and was registered with him at no. 2 in file No. 236/1 of 1983. The workman was medically examined by the Railway Doctor and found fit. His certificate number was 112896 dated 22-8-85. This record is with Railway Administration. The workman was not allowed to work from 19-8-86. The workman persistently demanded service and he was taken in service and again thrown out of service from 18-2-87. The workman has been orally told that in the Railway record, his service card is not there and because of it without service card, the workman cannot continue in Railway Service. The workman claims that it be declared that he is in continuous service of the management from 18-2-87 till today. The workman claims wages also for this period.

3. The case of the management is that the workman was issued a service card no. 307442 and he was appointed as a casual labour on 24-1-85. On 18-8-86, because of reduction of the workforce the workman was not given work. At that time, the workman has taken his service card from PWI Burhanpur. The workman again was engaged on 18-9-86 by PWI Burhanpur on the basis of old record. The workman again was asked to deposit the service card but the workman did not deposit it. The workman has left the job out of his own sweet will from 22-12-86. As the workman has abandoned the service himself, he is not entitled to any relief.

4. In the written statement, management has stated that the workman himself left the services on 22-12-86. The management do not agree that they have terminated the services of the workman. The workman filed an affidavit and stated in court that he was thrown out of employment. He denied that he has left the service out of his own choice. The management has not examined any witness to disprove the contention 3142 GI/99—20

of the workman. The management also has not filed any document to support their contention that the workman abandoned the work from 22-12-86. Such documents are available with the management yet they have not been filed.

5. The workman has proved that he has been thrown out of employment by the management from 22-12-86.

6. I believe the workman. Management has not allowed the workman to function from 22-12-86 without any reason or cause. The work which was done by the workman still exists. The award is given in favour of the workman. He be treated in continuous service from the date of removal till today. The management to pay him wages and allowances admissible to his category from the date of award and all the benefits of service. It will be deemed that there is no break in his service. Since the workman did not perform any work from 22-12-86 till today he will not be paid any wages and allowances for this period. Management to pay Rs. 2000/- as cost to the workman.

7. Copies of the award be sent to the Ministry of Labour, Government of India as per rules.

D. N. DIXIT, Presiding Officer.

नई दिल्ली, 13 अक्टूबर, 1999

कां० अ० 3215 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-10-99 को प्राप्त हुआ था।

[सं० एल-12012/199/95-आईआर (बी-1)]

जी० राय, डेस्क अधिकारी

New Delhi, the 13th October, 1999

S.O. 3215.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 12-10-1999.

[No. L-12012/199/95-IR(B-I)]

G. ROY, Desk Officer

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT, JABALPUR (M.P.)

Shri D. N. Dixit.—Presiding Officer.

Case No. CGIT/LC(R)/31/97

Shri Nathoolal Soni,  
S/o Sh. Chintamani Soni,  
Khan Garage  
Kotma  
Distt. Shahdol (M.P.).

Workman.

Versus

Regional Manager,  
State Bank of India,  
Regional Office,  
Station Road,  
Shahdol (M.P.).

Management.

## AWARD

Delivered on this 29th day of September, 1999

1. The Government of India, Ministry of Labour vide order No. L-12012/199/95-IR(B-I) dated 7-2-97 has referred the following dispute for adjudication by this Tribunal :

“Whether the action of Regional Manager, State Bank of India, Region-IV, Shahdol in disallowing opportunity to Sri Nathoolal Soni S/o Late Sh. Chintamani Soni, Ex-daily wage messenger, SBI Jaithari, for Permanent employment in the bank is legal and justified? To what relief the workman is entitled?”

2. The management remained absent in this case from 15-2-99 till 28-9-99. The management has been proceeded ex parte.

3. The case of the workman is that he was employed in the canteen of State Bank of India at Kotma Branch from 1-8-80 to 30-11-81 and he worked for a total period of 488 days. After this he was employed as messenger in the Jaithari Branch of the Bank from 1-8-82 to 31-3-83 and he worked for about 243 days. The workman has been retrenched from the service of the bank without notice or wages in lieu of or with retrenchment compensation. The workman applied for permanent appointment of the messenger in the year 1987 and he was denied the same on the ground that when he joined the service of the Bank he was minor. The workman prays that he be taken back with back wages and allowance.

4. The workman filed his affidavit and he was cross-examined by the advocate of management in the Court. He has stated that his date of birth is 6-12-66. When he joined service in the bank for first time he was 14 years of age. In the Bank Recruitment Rules the age of the messenger is between 14 to 21 years. Thus the workman was eligible for appointment in August, 1980 with the management.

5. Once the management has given employment to the workman morally they are not allowed to raise the objection that the initial appointment was irregular. Whatever irregularities are there are being committed by the Officers of the Bank and the workman cannot be allowed to suffer the consequences of the Officers as he was not the party of the appointment provision. Instead of taking action against the Officers who has committed irregularities the management is trying to deprive the workman of his legal rights. This attitude cannot be allowed to stand in the way of the workman.

6. The management had all the paper about the employment of workman. They have with held these papers and deliberately remained absent. Adverse inference is drawn against the management.

7. The workman has stated in his affidavit that he has worked for 500 days at Kotma and Jaithari Branches and without any break he has worked for 242 days in 12 months preceding termination. This act has not been contravened by the management. I believe the workman.

8. Before termination of employment workman has not been given retrenchment compensation and notice of termination. Thus the provisions of under section 25(f) of I.D. Act has not been followed by the management. It means that the termination of the workman is illegal.

9. The termination of the workman from March, 1983 is hereby quashed. It will be deemed that the workman is in service of the management continuously. Because the management has acted in a slip short and high handed manner, hence the workman is entitled to wages from 1-4-83 till date at the rate it is paid to messengers. This amount be paid to workman in 3 months of time from the publish of the Award. If this is not done the workman will be entitled to 12 per cent per annum from the date of default to the date of payment. The Award is given in favour of workman. Management to pay Rs. 5000 as cost to workman.

10. Copies of the Award be sent to Ministry of Labour, Government of India as per rules.

D. N. DIXIT, Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1999

कां०आ० 3216 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय रिजर्व बैंक के प्रबंधन के संबंध में निदेशों और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार श्रम न्यायालय, इरनाकुलम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-10-99 को प्राप्त हुआ था।

[सं० एल.-12012/51/94-आईआर (बी-1)]

जी० राय, डेस्क अधिकारी

New Delhi, the 13th October, 1999

S.O. 3216.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the

Central Government hereby publishes the award of the Central Government Labour Court, Ernakulam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Reserve Bank of India and their workman, which was received by the Central Government on 12-10-1999.

[No. L-12012/51/94-IR(B-I)]  
G. ROY, Desk Officer

#### ANNEXURE

IN THE CENTRAL GOVERNMENT LABOUR COURT, ERNAKULAM, (LABOUR COURT, ERNAKULAM)

(Tuesday, the 12th day of July, 1999)

#### PRESENT :

Sri. D. Mohanarajan, B.Sc., LL.B., Presiding Officer,

Industrial Dispute No. 22 of 1995(C)

#### BETWEEN :

The Joint Controller, Exchange Control Department, Reserve Bank of India, Kochi-18.

#### AND

The Secretary, Reserve Bank Employees Association, Kochi-18.

#### REPRESENTATION :

M. Ramchandran,  
Advocate,  
Cochin-17.

For Union

#### -AWARD-

The issue referred for adjudication to this court by the Government of India as per order No. L-12012/51/94-IRB1 dated 17-7-95 is :

"Whether the action of the management of Joint Controller Reserve Bank of India, Kochi in denying accident leave from 9-3-92 to 6-6-92 is justified or not?" If not, to what relief Sri. V. Balakrishnan Clerk, Gr. II is entitled?"

2. In response to the notice issued from this court, the union and the management entered appearance and submitted their respective pleadings.

3. The claim statement filed by the union reads in brief as follows : The workman Sri. V. Balakrishnan is an employee under the Reserve Bank of India, the management. While he was working in the general section attached to the exchange control department of the management Bank as Clerk Gr. II, on 7-3-1992—he met with an accident in the course of his duty. The canteen of the Bank is situated in the ground floor of the building. The section in which he was working was situated on the first floor. At about 11.45 A.M. on that day he was returning to his seat, after taking forenoon coffee from the canteen. He sustained serious injury on his left knee due to a fall by slipping on the flight of stairs. Consequently he was hospitalised and treat-

ed. In X-ray fracture of left patella was detected. The injured leg was put under plaster cast at the Lissaie Hospital, Ernakulam. Even after removal of plaster cast his left knee joint remained immobile, pursuant to which he had undergone physiotherapy at the said hospital as an inpatient from 21-4-1992 to 5-5-1992. Altogether, for a period of 90 days from 9-3-92 to 6-6-92 he was unable to attend his duties. On rejoining duty he requested the management vide letter dated 9-2-1992 to regularise his absence during the said period by sanctioning eligible accident leave as provided in Regulation 95 A (1) of Reserve Bank of India (Staff) Regulations, 1948. That application was supported by medical certificate. Without assigning any reasons that application was rejected by the management. The appeal preferred by the workman was also dismissed. Ultimately the union took up the matter and sent a representation to the Chief Manager of the Bank, requesting to review the prior decision and to consider the legitimate claim of the workman favourably. That prayer was also disallowed. The local management in turn already initiated action to regularise the period of absence by debiting other leave standing to the credit of the workman. In the above circumstances, at the instance of the union, the present dispute has been referred by the Government. The action of the management in denying accident leave to the workman amounts to victimisation and unfair labour practice. It is prayed that an award be passed holding that the workman is entitled to accident leave for the period from 9-3-92 to 6-6-1992.

4. The management filed written statement raising the following contentions. The dispute referred is not maintainable. The grant of accident leave is governed by regulation 95A of the Reserve Bank of India (Staff) Regulations, 1948. As per this Regulation, accident leave can be granted to an employee who sustains injury in the course of the performance of his duties. Even according to the allegations in the claim statement, the workman sustained injury while he was returning to his seat after taking forenoon coffee from the Bank's canteen. He was injured not in the course of performance of his duties. During the relevant period he was a clerk doing desk works. He is not eligible for accident leave for the reasons stated above. But he was granted other permissible leave. He has reimbursed the medical expenses incurred by him for treatment from the management. The management has not acted with any mala fide intention nor has victimised the workman as alleged. The action taken by the management is legal and sustainable. It is prayed that an award be passed upholding the action of the management.

5. The concerned workman as WW1 has deposed in terms of the averments in the claim statement. On the other hand, one of the Managers of the management Bank as MW1 has given evidence in support of the contentions taken by them in the written statement. Ext. A1 to A5 were marked from the side of the union.

6. It is the admitted case that on 7-3-1992 at about 11.45 A.M. the workman was injured while returning from canteen by slipping on the stair-case. An undisplaced fracture was caused to his left

patella in the accident. Consequently he was hospitalised and could not attend office for the period from 9-3-1992 to 6-6-1992. He sent Ext. W1 letter to the management claiming accident leave under Ext. A5—Regulation 95A of Reserve Bank of India (Staff) Regulations, 1948. That claim was disallowed by the management as per Ext. W4 letter. Ext. W1 letter of the workman was supported by Exts. W2 & W3 medical certificates. It is stated in Ext. W2 medical certificate that the workman was treated as inpatient and out patient in Lissie hospital, Ernakulam for undisplaced fracture of left patella and that he was advised to take rest w.e.f. 9-3-1992 to 6-6-1992. Through Ext. W3 certificate the medical officer of the said hospital recommended to grant accident leave to the workman for the period from 9-3-1992 to 6-6-1992.

7. The specific case of the union is that the accident occurred in the course of employment of the workman and so he is eligible for accident leave during the said period. Ext. A5 Regulation is relied on by the union to substantiate its claim. Whereas, relying on the same regulation the management contends that since the workman was not injured in the course of performance of his duties, his claim for accident leave is unsustainable.

8. Ext. A5, the relevant regulation is extracted below :

“Regulation 95A

- (1) Accident leave may be granted to an employee who sustains an injury in the course of the performance of his duties, for the period for which leave is certified by the Bank's Medical Officer to be necessary for recovery from the injury.
- (2) Accident leave would also be admissible to an employee, who is on official tour, in connection with the Bank's work, subject to the period for which leave is necessary for recovery from the injury being certified either by the Bank's Medical Officer, or a Government/Municipal doctor or any other doctor acceptable to the competent authority.
- (3) The competent authority may, at the option of the employee, grant any other kind of leave as admissible to him for the period so medically certified and also in combination with or in continuation of any accident leave sanctioned.
- (4) An employee on accident, leave shall, for the first 4 months thereof, draw a pay equal to his leave pay and half leave pay for the rest of the period.”

9. Under section 3(1) of the Workmen's Compensation Act and also under section 2(8) of the Employees' State Insurance Act accident leave is provided for the injury arising out of and in the course of employment. But the wordings in Ext. A5 are different from that under the said sections of the said Acts. Under Ext. A5 accident leave is per-

missible only for accidents sustained in the course of performance of duties while the above statutes cover injury arising out of and in the course of employment. It is true that during the course of employment the workman sustained injury. But it was not in the course of performance of his duties. Ext. W5 regulation is meant to cover accidents only during the course of actual performance of duties. This regulation does not provide accident leave for the injury sustained by the employee in the course of employment but covers only injury occurring in the actual performance of duties. In the instant case, the workman has not sustained any injury during the actual performance of his duties. Hence his claim for accident leave is not justified. An award has to be passed accordingly.

In the result, the reference is answered holding that the claim of the workman for accident leave is not justified.

Dictated to the Confidential Assistant transcribed and typed out by her corrected by me and passed this award on the 14th day of July, 1999.  
Ernakulam.

D MOHANARAJAN, Presiding Officer

## APPENDIX

Witness examined on the side of Management  
Jimmy Abraham.

Witness examined on the side of union :  
V. Balakrishnan.

Documents marked on the side of management :  
Nil.

Documents marked on the side of union .

W1 9.6.92—Leave application submitted by Sri. V. Balakrishnan.

W2 6-6-92—Copy of the Medical Certificate.

W3 10-6-92—Copy of Medical Certificate.

W4 26-10-92—Letter of the management in connection with application.

W5 —Relevant portion of staff regulation.

नई दिल्ली, 13 अक्टूबर, 1999

का.अ. 3217.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार क्षेत्रीय ग्रामीण बैंक के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-10-1999 को प्राप्त हुआ था।

[संख्या एल-12012/9/93-आई. आर. (बी-1)  
जी राय, डैस्क अधिकारी

New Delhi, the 13th October, 1999

S.O. 3217.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Kosi Kshetriya Gramin Bank and their workman which was received by the Central Government on 12-10-1999.

[No. L-12012/9/93-IR(B-I)]

G. ROY, Desk Officer

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL (NO. 2) AT  
DHANBAD

## PRESENT :

Shri B. B. Chatterjee, Presiding Officer,  
In the matter of an Industrial Dispute under Section  
10(1)(d) of the I. D. Act, 1947

REFERENCE NO. 57 OF 1993

## PARTIES :

Employers in relation to the management of  
Koshi Kshetriya Gramin Bank and their  
workmen.

## APPEARANCES :

On behalf of the workmen—None.

On behalf of the employers—None.

STATE : Bihar. INDUSTRY : Banking

Dated, Dhanbad, the 6th October, 1999

## AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1) (d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-12012/9/94-IR. (B-I), dated the 26th April, 1993.

## SCHEDULE

“Whether the action of the management of Kosi Kshetriya Gramin Bank in terminating the services of Shri Ram Chandra Manjhee is legal and justified? If not, to what relief the workman is entitled to?”

2. In this reference none of the parties appeared before this Tribunal nor took any steps although notices were served upon them. The reference is pending since 1993 and it is of no use to drag the same any more. Under such circumstances a ‘No dispute’ award is being rendered and the reference is disposed of on ‘No dispute’ award basis on the presumption of non-existence of any industrial dispute between the parties presently.

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1999

का.आ. 3218.—आद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक आफ इन्दौर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुद्ध में निर्दिष्ट आद्योगिक विवाद में केन्द्रीय सरकार आद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-10-1999 को प्राप्त हुआ था।

[संख्या एल-12012/2/90 आर्. (बी-III)/(बी-I)]

जी. राय, डेस्क अधिकारी

New Delhi, the 13th October, 1999

S.O. 3218.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Indore and their workman, which was received by the Central Government on 12-10-1999.

[No. L-12012/2/90-IR(B-III)(B-I)]

G. ROY, Desk Officer

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT, JABALPUR

SHRI D. N. DIXIT, Presiding Officer.

CASE NO. CGIT/LC/R/168/90

Shri Surehschand Jain,  
C/o Maniklal Kothari,  
PO Mehidpur,  
Distt. Ujjain.

Applicant

Versus

Regional Manager,  
State Bank of Indore,  
5, Y. N. Road,  
Indore.

Respondents

## AWARD

Delivered on this 16th day of September, 1999

1. The Government of India, Ministry of Labour vide order No. L-12012/2/90-IRB. III dated 20-7-99 has referred the following dispute for adjudication by this tribunal—

“Whether the action of the management of State Bank of Indore in dismissing Shri S. C. Jain and imposing other punishment namely, cancellation of three grade increments as mentioned in their letter No. RM(III)/ESTT/No. 000866 dated 25-1-80 is justified? If not, what relief the workman is entitled to and from which date?”

2. The case of the workman is that a criminal case was registered against him on the complaint of Smt. Ombai on 16-10-76. This case was compromised in the court of Magistrate 1st class Vidisha and the workman was discharged from all charges by order of the court dated 30-4-77.

3. The police searched the house of the workman on 15-1-77 and found a bottle of touch and go ink and blank cheques in his room. The workman was suspended with effect from 19-1-77. A criminal case was filed against the workman in the court of CJM, Vidisha. The workman was discharged in this case by order dated 8-2-78.

4. The further contention of the workman is that he was served with a chargesheet which contained three charges, on 21-11-78. The workman denied all 3 charges. The management instituted a Departmental Enquiry against the workman on 24-3-79. The contention of the workman is that the procedure followed in the DE is contrary to the principles of natural justice. In the enquiry, workman was found guilty of all three charges. On the report of the enquiry, the competent authority passed the order of dismissal against the workman in the 2nd charge, he has been given a warning on 2nd charge and in the 3rd charge, his 3 increments of pay has been cancelled. The workman preferred an appeal. In the appeal the punishment of dismissal was altered to discharge. The workman wants that order of termination dated 25-1-80 be quashed and he be declared to be in service. The workman further wants arrears of wages.

5. The case of the management is in the year 1976, the workman was found involved in about 3 incidents of moral turpitude. In one incident, while travelling in a bus during night, he misbehaved with a female passenger and was beaten by the co-passengers. One judge informed the management about this incident. In the 2nd incident, he was prosecuted with Basant Kumar Udasi for attempting to rape his maid servant at his residence. In the 3rd incident, it was found that with Basant Kumar Udasi, the workman was mixed up in purchase of various drafts for a small amounts at the various branches of the Bank and fraudulently altered the amounts of higher amounts and obtained payments on this forged amount. Two cases involving an amount of Rs. 1 Lakh approximately had been caught. The police searched the residence of the workman and blank cheque forms signed by Shri Basant Kumar Udasi and touch and go Erasing chemical were found at the residence of the workman. All these 3 incidents brought a bad name to the Bank and caused apprehensions in the mind of the customers of the Bank. Under these circumstances, a departmental enquiry was ordered on 19-1-77 against the workman.

6. The workman denied the charges and appeared in the DE along with the co-worker. The management examined the witness and proved its case. The Enquiry Officer found the workman guilty and submitted his report. The disciplinary authority passed the sentence of dismissal from Bank services warning in the second charge and withheld 3 increments in the 3rd charge. The workman preferred an

appeal. The Appellate Authority converted the order of dismissal into discharge.

7. According to management looking to the gravity of misconduct the order of discharge from service is justified and the workman deserves no sympathy. The management wants the award to be passed in their favour.

8. The following charges were framed against the workman—

Charge No. 1 :

You were prosecuted by the Police, Basoda under Sections 376, 511, 342, 506, 509 and 323 of the Indian Penal Code in the court of Magistrate, Class-I Basoda on the complaint of a lady Smt. Ombai. Although the court has discharged you under Sections 342, 506, 509 and 323 on the basis of a compromise entered into between you and Smt. Ombai but your act constituting of sections of IPC has adversely affected the Bank's image at Basoda."

Charge No. 2 :

On 15th October, 1976, we received a written complaint from Sanjay C. Sharma, Judicial Magistrate, Class I Bhopal that on 11-10-76 while you were a co-passenger with him in the Ratlam Bhopal passenger bus, you teased some ladies and girls, travelling in the same bus. Consequently, the other passengers gave you a beating and you were handed over the police station, Shahjahanabad, Bhopal your above act has also adversely affected the Bank's image.

Charge No. 3 :

During November, December, 1976, as many as three draft fraud cases took place at Bank's Vidisha and Bhopal branches which is likely to result in a loss of about 1.50 Lakhs to the Bank. During investigation of these cases, it was found that the main culprit Basant Kumar Udasi was your friend, who was also a co-accused in the criminal case against you on the complaint of Smt. Ombai which has been stated in paragraph (i) above.

When a search of your residence was taken, the police recovered some blank cheque forms together with a bottle of touch and go erasing chemical and as such in this case too, you were prosecuted at Vidisha Court along with Shri Basant Kumar Udasi and other culprits under Sections 420, 467, 468 and 120-B of IPC. Since the court did not consider the recovery of the above things from your residence and your association with Shri Basant Kumar Udasi, the main culprit, as conclusive evidence to prosecute you, you were discharged on the technical grounds.

The above acts were considered by the Bank prejudicial to the Bank's interest constituting gross misconduct in terms of para 19.5(j) of the 1st Bipartite settlement dated 19-10-96.

9. The Disciplinary Authority imposed the following punishment to run concurrently against the workman—

Charge No. 3 :

You are dismissed from the Bank's service without notice.



## Charge No. 2 :

You are hereby warned not to indulge in any act/omission constituting misconduct, which if recurs, will be viewed with severe consequences.

## Charge No. 1 :

Your three grade increments of Rs. 14, Rs. 15 and Rs. 15 each payable to you on the 30th May 1977, 30th May, 1978 and 30th May 1979 are cancelled.

10. In appeal on 20-6-80, the Appellate authority held that the punishment of dismissal from service is likely to come in way of workman obtaining other employment and to begin life a fresh altered the punishment of dismissal to that of discharge. The other two punishments given by the competent authority were confirmed. Thus, on charge No. 3, the workman was discharged and on charge No. 2, he was warned and on charge No. 1, 3 increments were cancelled.

11. By order dated 17-10-95; this court has held that the workman is challenging the findings of the Enquiry Officer and the quantum of punishment. The DE papers are not in dispute and the opportunity granted to the workman to defend his case. The DE is not challenged hence the case was posted for arguments on the perversity of the findings and quantum of punishment.

12. In the DE, the management has examined only one witness namely Shri J. R. Chouhan who was Manager of the Basoda branch of the Bank in the year 1977. His statement is Ex. A-4. He has stated that a letter was sent by Shri K.C. Jain Judicial Magistrate 1st class Bhopal to the Bank stating that the workman was arrested for teasing the girls on 11-10-76 in a public bus. This letter is Ex. M-1.

13. The management witness Shri J. R. Chouhan further stated that the workman was arrested by police at Basoda on the complaint of Smt. Ombai. This lowered the prestige of the Bank in the public eye.

14. Shri J. R. Chouhan further stated that the house of the workman was searched by the police in a fraud case and incriminating articles were seized from his house. These are two blank cheques and one bottle of touch and go chemical. Along with the workman, Basant Kumar Udasi was also prosecuted for the rape of Ombai and in the fraud case.

15. In cross examination by the co-worker this witness has stated that due to criminal activities of the workman, the reputation of the Bank at Basoda was seriously affected.

16. A criminal case was instituted against the workman No. 666/77 in the court of CJM Vidisha under Sec. 420, 468, 471 and 120-B of the IPC. In this case, the workman was discharged on 8-1-90.

17. Smt. Ombai filed a complaint Ex. M-9 in the police station alleging that the workman and one Basant Kumar Udasi detained her in the house of the

workman. The workman asked Smt. Ombai to submit her to the wishes of his friend Basant Kumar Udasi. Thus, the workman helped Udasi to commit the act of rape. The workman was arrested on 16-10-76. This offence was compounded on the application of Ombai dated 29-4-77. The workman was discharged on the basis of compromise with Smt. Ombai. The happening of this incident has not been denied by the workman. Thus, the participation of the workman in the criminal Act is established.

18. The workman was prosecuted for defrauding the bank under Sections 420, 468, 471 and 120-B of the IPC by order dated 8-1-80, copy of which is Ex. A-I. The workman was discharged purely on technical grounds. The workman has not explained his conduct to the Bank after discharge in this case. Thus, the stigma of fraud was not washed from the character of the workman.

19. Shri K. C. Sharma Judicial Magistrate Class-I Bhopal has written a letter copy of which is Ex. M-1 stating the misconduct of the workman and has requested the management to dismiss the misconduct, the punishment given to the workman is reasonable and calls for no interference.

20. The workman has no case. The actions of the management are legal and valid. The award is given in favour of the management.

21. Copies of the award be sent to the Government of India, Ministry of Labour as per rules.

D. N. DIXIT, Presiding Officer

नई दिल्ली, 11 अक्टूबर, 1999

का.प्र. 3219:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबंध में निम्नलिखित आदेशों को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-10-99 को प्राप्त हुआ था।

[सं एल-12012/332/94-आई. आर. (बी-II)]

सी० गंगाधरण, अवर सचिव

New Delhi, the 11th October, 1999

S.O. 3219.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workman, which was received by the Central Government on 8-10-99.

[No. L-12012/332/94-IR(B-II)]  
C. GANGADHARAN, Under Secy

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated 29th September, 1999

## PRESENT :

Justice R. Ramakrishna, Presiding Officer.  
C.R. No. 21/97

## I PARTY

Smt. Meera A. Shanbag,  
1003, III 'A' Main Road,  
E Block, II Stage,  
Rajajinagar, Bangalore-10.

## II PARTY

The Deputy General Manager,  
I & R Division),  
Syndicate Bank, Gandhinagar,  
Bangalore 560009.

## AWARD

1. The Central Government by exercising the powers conferred by clause (d) of the Sub-section (1) and Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12012/332/94-IR (B-II) dated 8th February 1995 for adjudication on the following schedule.

## SCHEDULE

"Whether the action of the management of Syndicate Bank, Bangalore in dismissing Smt. Meera A. Shanbag, Clerk from service w.e.f. 16-3-93 is legal and justified? If not to what relief is the said workman entitled?"

2. This dispute demonstrates High degree of Hard work by the II party to prove the misconduct against the I party, which resulted in dismissing her from the service of the Bank.

3. An alleged charge said to have been committed in the year 1988 and in the beginning of 1989. A charge sheet dated 21-2-91 (Ex M-1) was issued. In five transactions, the nature of misconduct was shown and the method adopted to commit these misconduct are explained in detail and their after the efforts of the management to make out a case of misconduct and the methodology was explained. This Charge Sheet contained six charges. Finally the management decided that the I party has committed a misconduct within the meaning of Clause 19.5(j) of the Bipartite Settlement.

4. The management decided to conduct the Domestic Enquiry as they have not satisfied with the reply Ex M-2 dated 18-3-91.

5. The I party in the reply has touched almost all the averments made in the Charge Sheet and contended that she has not committed any misconduct as alleged, as the same does not amount to misconduct but a routine practice that is being done by many of the Bank employees and special emphasis cannot be given as an exception to this workman.

6. The Domestic Enquiry was conducted by an officer of the Bank and the I party has participated in the enquiry by taking the assistance of a Defence Representative. The II party examined 4 witnesses and got marked MEX 1 to MEX 53. On behalf of the defence no oral evidence was adduced but the documents 1 to 16 were marked as defence exhibits.

7. The Enquiry Officer on the assessment of the evidence came to the conclusion that the I party is guilty of the charge levelled against her which attracts a misconduct under clause 19.5(j).

8. The Disciplinary Authority after receipt of the report called for the I party to have her say with regard to proposed punishment of dismissal. The I party gave a representation dated 22-9-93 highlighting the gravity of misconduct on the punishment proposed. She has specifically contended that

she has put up more than 25 years of unblemished service which shall be taken into consideration and also the fact that her husband having met with an accident is bed ridden from last 3 years and there is a mentally retarded child of 7 years and another female child of 5 years and therefore some lenient view is required to be taken in imposing the punishment and an order of dismissal will ruin her entire family.

9. The Disciplinary Authority has not accepted the contention and passed an Order of dismissal with immediate effect. Of course the Appellate Authority rejected her appeal.

10. Since the I party raised a contention as it relates to the validity of Domestic Enquiry, a preliminary issue was framed. The evidence of the Enquiry Officer and the I party was recorded. By appreciating the respective evidence this Tribunal passed an order on this issue in favour of Management.

11. Now the question that required to be examined includes the perversity in the findings of the Enquiry Officer, Victimisation if any which amounts to Unfair Labour Practice, the gravity of the Charges, and the resultant punishment.

12. The I party in her Claim Statement, as it regards to the II stage of the case, has contended that the findings of the Enquiry Officer is perverse as he has not addressed to himself as to the particular set of facts, amounted to a misconduct under clause 19.5(j) of the Bipartite Settlement. It is further contended that the Enquiry Officer was bent upon finding the I party guilty for the reasons best known to him. The Disciplinary Authority and the Appellate Authority failed to examine the authenticity of the order passed by the Enquiry Officer and the prayer made by the I party while awarding punishment. The authorities have not considered her unblemished service of more than 20 years while awarding this punishment.

13. In the Para 10 of her Claim Statement it is stated that in identical circumstances the Bank has not punished in the manner the I party was treated in respect of one Sri Achutha Baliga against whom an enquiry was held in an identical circumstance, but he has not been awarded the punishment of dismissal. In fact that employee discounted cheques for more than 10 times and the amount involved was more than Rs. 86,000.

14. The I party has lastly contended that she is only member running her family as her husband is suffering from accident and he is physically handicapped. She is also burdened with one mentally retarded child and another child. She also stated about her good work prior to this enquiry and prayed for a lenient view in the matter.

15. The II party as it regards to the merits of the case, in their para wise remarks justified the action of the management as the misconduct committed and proved was extra ordinarily serious and therefore the Order of dismissal is proper punishment.

16. As it regards to the question of Victimisation raised by the I party, the II party contended that such allegation is misconceived and baseless. Finally, it is contended that the banks are financial institutions dealing with Public money and they depend on the trust reposed in them by their customers. To earn this trust, the Banks depend entirely on the Honesty and Integrity of their personnel particularly those who are on the operational level. If the integrity of an employee comes under a cloud, then the Bank can no longer trust such an employee and entrust public monies to him/her. The retention of such an employee whose integrity and honest is doubtful does not augur well for the banking industry and its image.

17. Now the points that requires determination are :

- Whether the charges alleged against the I party amounts to a gross misconduct coming under clause 19.5(j) of the Bipartite Settlement?
- Whether the charges are proved in the Domestic Enquiry?
- Whether the II party justified in awarding a punishment of dismissal, in the facts and circumstances of this case?

### What Order ?

18. Point (a & b) : The Management have taken maximum pain in analysing the charges made against the I party. The charges 1 and 3 relates to discounting of cheque by the I party in the accounts she held at Ankola Branch and Kumia Branch. The Enquiry Officer relied on the evidence of MW 1 and MW 2. The related documents are MEX 1, ME X 6, ME X 45 and ME X 49 & 50.

19. The Sum and substance of the finding of the Enquiry Officer on these two charges are that though there was no sufficient funds in the SB account of the CSE even to recover the complete amount of charges after return of the said cheques, as such it is obvious that the CSE discounted the instrument drawn on Kumta Branch and Ankola Branch, knowingly well that there was no sufficient balance in the account and this was with a view to her urgent financial necessity and thus derive undue pecuniary advantage at the cost of the Bank.

20. It is submitted that the discounting of cheques is a normal practice recognised in the banking institution and the respective managers are empowered to give permission for discount even if there is shortage of funds depending upon the status of the account holder. If we take this analogy of procedure the I party who is put in nearly 20 years at the time of this incident may indulge in discounting cheques which ultimately she is to make good if the balance is insufficient. It is the question of normal adjustments of the Institution.

21. Therefore, the finding of the Enquiry Officer that this is a proved misconduct is virtually perverse.

22. With regard to charge 2, 4 and 5 the finding of the Enquiry Officer on charge 2 is when the cheques was returned on 6-12-88 there was no sufficient balance in the SB account 7166 of the CSE and as such entry of the account would have compelled her to arrange for immediate fund to the extent of Rs. 1000. Further the entries in the ledger were made by the CSE herself and being the person interested she only could have caused the misappropriation/destruction and the very fact that the entries made by the CSE has been proved in the findings.

23. The Enquiry Officer posed a question for himself to the fact why a credit entry on "Rs. 1000 in the SB ledger was struck off ? Had it remained extra, what would have happened ? Probably the answer to the questions should lead us close to finding out as to who have interested in the transactions".

24. After discussing at a great length the Enquiry Officer concluded :

"It is absurd to think that the supervisor concerned could have issued only credit slip for Rs. 1000 without the accompanying debit slips for MW 3 or for that matter any other supervisor could have had no interest in the transaction. Further, the CSE herself being the ledger clerk and aware of the tight financial position under which she was operating the account, should have known the lapse if any, on the part of, either the supervisor or other staff in not sending the debit slip for Rs. 1000. The CSE not posting the credit in MEX 1, entering the same in MEX 8 and later striking off the entries are obvious pointers which strengthens the suspicion and confirms that all these were the handi work of the CSE to conceal the fact of her fraud. I therefore, have no hesitation to hold that the misplacement/loss of the debit slip dated 6-12-88 for Rs. 1000 in respect of SB a/c 7116 without entry of Rs. 1000 as 7116-1000 in MEX 8 and later striking off the same are at the instance of the CSE."

25. This clearly demonstrates that the reasoning of the Enquiry Officer is Hypothetical. He decided himself that the I party was in the tight financial position and therefore her involvement is proved. To arrive at a conclusion the question is not proved beyond doubt and a great injustice will cause if one reaches a conclusion, thus said to have been proved.

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26. With regard to 4th and 5th charge this relates to a cheque for Rs. 670 which was discounted at BWSSB Branch, Bangalore. In the account SB 7116. There is allegations of manipulating the figures while bringing in the receipt of this amount.

27. What emerges by appreciating the charges levelled against I party and the relative evidence relied to prove these charges is quite appreciable. But the fact remains whether the facts of this nature will attract clause 19.5(j) of the Bi-partite Settlement. It is not defined in Bi-partite Settlement nor it was brought to the notice of the Tribunal the definition that could be made at least by the pronouncement of any Judicial Orders.

28. Clause 19.5 deals with the acts which are common under gross misconduct which are from (a) to (i). Sub claims (a) to (i) and (k) and (i) defines certain acts amounts to gross misconduct. These misconducts could be understood by any person, even by a person of ordinary prudence as to what is prohibited by the Bi-partite Settlement in a clear terms.

29. Clause (j) is quite exception which does not spell out its intention as to what type of fact as a prejudicial to the interest of the bank. Therefore it has become a tool in the hand of the management to decide even a minor misconduct as a major misconduct by extending the definition without any basis.

30. Clause 19.7 explains what are the minor misconduct. They are also from clause (a) to clause (i). The wordings are clear, unambiguous and therefore there could not be any problem for an employee to understand what is minor misconduct. Therefore if we analyse clause 19.5 and clause 19.7, clause (j) under clause 19.5 stands altogether as a clause which cannot be defined in any clear terms but it is a tool in the hands of the management to brand even a petty offence as an offence of gross misconduct.

31. Therefore when a particular provision is not clear and suffers from ambiguity then the authorities is to examine those provisions objectively to satisfy them. Of course by reading some of the judgement, where the basis of a true intent, charge coming under clause 19.5(i), misappropriation, fraud and connected offences deemed to have falling under this clause. But gravity of the charges shall be looked into and not the nomenclature attached to a charge. Therefore looking into facts and circumstances of this case and the related allegations made against the I party the misconduct alleged is not a grave misconduct and in all fairness they will fall under minor misconduct defined under clause (c & d).

32. The term proving a fact depends on the fact that a particular incident required to be examined. The I party in her reply to charge sheet has not denied the discounting of the cheques and she is contended that it is a routine that is being done in all bank institutions as discounting a cheque when there is no amount in the credit does not amount to defrauding a bank but a temporary accommodation to a guarantee customer who will subsequently make good of the amount withdrawn. Therefore it is not a thing that will be proved by conducting a Domestic Enquiry. Therefore the management have taken an unusual interest in conducting a Domestic Enquiry to prove a fact which is already proved. Therefore, I have no hesitation to hold a & b in the negative.

33. Point C : In every undertaking whether it is a banking institution or other organisation of the government including judiciary every employee, whatever may be the degree of designation are required to be follow Honesty, Integrity, Hard Work and interestedness in performing the duties. There may be instances where a uniform degree of efficiency cannot be expected from all the employees alike. There may be different outlook and understanding in performing a particular nature of work. Therefore to prove somebody is having committed a misconduct there shall be an examination where commission of such an incident is deliberate, accidental or as a routine. If we analyse the above, the action which was deliberately done is actionable but not the latter that is accidental and routine.

34. If we analyse this case in this background we are not able to find any deliberate attempt by the I party to commit the charges levelled against her, it is not deliberate intention or accidental but it is only routine.

35. We may ask a question to ourselves taking the scenario of this country and the manner of function which is very difficult to analyse who is honest and who is dishonest. It all depends on how one views to implicate somebody as dishonestly when he does certain acts as a routine. The banking institution are not an exception. Institutions which can view even a routine factor as deliberate and punish the workman with grave consequence the letter of law is violated.

36. Therefore, the management are not justified in awarding punishment of dismissal for a misconduct of this nature. We are coming across deliberate attempts to defraud millions of rupees from the Banking undertaking and several factors are not coming into light because of various circumstances.

37. Now coming to a contention raised by the I party in para 10 of the Claim Statement that in similar circumstances when the misconduct is so grave with that of what is imputed against the I party the bank has not punished with an order of dismissal and thereby condones a misconduct involved of several thousands of rupees of the bank. The II party in their Counter Statement not denied this fact, except showing that this point is misconceived and baseless. Therefore, admittedly the management have victimised the I party and thereby committed unfair Labour Practice. An evidence is not necessary as there was no scope to prove this matter before the Tribunal.

38. It is true that any misappropriation, by a Bank employee is required to be viewed with seriousness and the punishment of dismissal is the proper punishment in such circumstances.

39. Here is a case where there is no misappropriation, there is no loss to the bank. As an employee of the bank who has put up long service tried to discount some cheques to meet her need without causing any financial loss to the bank and in such circumstances if we view that she is committing an offence which will blot to her past image carried so far. It is a misnomer and the conduct is viewed, which is a ruse to punish a bank employee in the management so desires. Therefore, I have no hesitation to hold that the punishment is disproportionate and excessive.

40. By analysing the intentment of law this Tribunal is not forming its own opinion other than what is formed by the Enquiry Officer by analysing the evidence differently. This Tribunal is finding out how the order of the Enquiry Officer is perverse which is also connected with a bias mind. If somebody decide to implicate another then a analytical view made by them is reflective of bias.

41. The I party makes an appeal to the Disciplinary Authority to take into consideration her past services, gravity of the misconduct and her family circumstances to rationalise the punishment other than what is proposed. The management was not prepared to take these facts into consideration, they have also not discussed blemishless past service which has reached almost 20 years at that time, as they are not inclined to consider having other than dismissing the service of the I party. Therefore, there is no impediment to hold that the punishment is excessive.

42. The law is well settled that the management shall consider the past service of an employee before imposing punishment. I am not inclined to quote the authorities on this point. It is high time we must give up our fancy to reproduce authorities every now and then, but it is sufficient to take note of the intentment of authorities and follow it.

43. Having regards to these facts and circumstances the following order is passed.

#### ORDER

44. The II party are not justified in dismissing the service of the I party. Consequent to this order the II party are directed to reinstate the I party to the position she was held at the time of her dismissal. The I party is entitled to 50 per cent of wages and continuity of service. The reference

is answered accordingly.

(Dictated to the L D C, transcribed by him, corrected and signed by me on 29th September, 1999).

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 11 अक्टूबर, 1999

का. धा. 3220.—औद्योगिक विवाद, अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सिंडिकेट बैंक के प्रवर्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुवध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलोर के पंचाट को प्रकाशित करती है जो केन्द्रीय सरकार को 08-10-99 को प्राप्त हुआ था।

[सं. एन-12012/355/97-आई. वार. (बी-II)]

सी. गंगाधरन, द्रवर सचिव

New Delhi, the 11th October, 1999

S.O. 3220.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workman, which was received by the Central Government on 08-10-99.

[No. L-12012/355/97-IR(B-II)]

C. GANGADHARAN, Under Secy.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 1-10-99

#### PRESENT:

Justice R. Ramakrishna, Presiding Officer.

C.R. No. 15/98

#### I PARTY

The General Secretary,  
Syndicate Bank Staff Association (Regd.),  
Ananda Plaza, II Floor,  
Near Ananda Rao Circle,  
Bangalore-560009.

#### II PARTY

The General Manager (P),  
Syndicate Bank,  
H.O. Manipal.

#### AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12012/355/97/IR (B-II) dated 26-2-1998 on the following schedule :—

#### SCHEDULE

"Whether the action of the Management of Syndicate Bank in terminating the services of Shri M. L. Bhat, Clerk is legal and justified? If not, to what relief the said workman is entitled?"

2. The first party was appointed as a Clerk on 11-2-78. He has worked in various branches of the second party bank. In the year 1995 he was working in Asset Recovery Management branch at Bangalore. The management having discovered a series of misconduct committed by this wo

have issued a charge sheet dated 21-9-95 listing as many as six charges. Those charges are :—

1. Received an amount of Rs. 200 from Smt. Vasanthamma on 9-4-94 for the purpose of crediting to SB account No. 10527 and did not credit the same to her account;
2. Received an amount of Rs. 10,000 for the purpose of crediting to SB account No. 9318 of Smt. Vijaya G. Hegde on 5-5-94 and did not credit the same to her account;
3. Issue 48 cheques without maintaining sufficient balance which were returned unpaid;
4. Discounted a cheque for Rs. 10,000 on 4-7-92 which was returned unpaid and you reimbursed the amount only on 12-12-92;
5. Got encashed a pay order for Rs. 21,400 issued from the proceeds of DL for Rs. 50,000 arranged to you on 30-6-1994 and utilised the proceeds for a purpose other than for which, the DL was sanctioned;
6. Got encashed a pay order for Rs. 20,000 being the part proceeds of the DL for Rs. 36,480 arranged in the name of Sri Lakkanna, Attender of the branch and utilised the proceeds for yourself for a purpose other than for which the DL was sanctioned to Sri Lakkanna.

3. The workman gave a reply dated 31-10-95 denying all the averments. The management decided to conduct a domestic enquiry and appointed an enquiry officer. After giving full and sufficient opportunity to this workman to participate in the domestic enquiry, the management concluded the enquiry by examining two witnesses and marking as many as 46 documents. The workman examined himself as DW 1 and 7 documents were marked on his behalf.

4. The enquiry officer by assessing the evidence, both oral and documentary and relying on the written briefs submitted by both parties gave his finding dated 12-7-1996. The following conclusion is reached by the Enquiry Officer :—

- Charge Number 1 : Proved
- Charge Number 2 : Proved
- Charge Number 3 : Party proved
- Charge Number 4 : Proved
- Charge Number 5 : Not proved
- Charge Number 6 : Not proved.

5. We have framed a preliminary issue to give a finding on the validity of Domestic Enquiry in view of the contentions raised by this workman in his claim statement. The first party filed a memo conceding the fairness of the enquiry and reserving his right to canvass the arguments on the question of perversity, victimisation and proportionality of punishment to the proved misconduct, if any.

6. Shri VSN the learned advocate for the first party has contended that as it regards Charge Number 4, the first party has nothing to say except that he did discounted a cheque for Rs. 10,000 and since the sufficient funds were not available to that extend he is guilty of using the amount belongs to the bank, which however, later reimbursed.

7. With regard to Charge No. 3 the submission of the learned advocate is that by issuing cheques without seriously noting the balance available is objectionable but during the evidence it is proved only about 16 cheques were dishonoured and therefore no serious view can be taken as it relates to this charge.

8. The next contention of Shri VSN is that the report of the Enquiry Officer as it relates to Charge No. 1 and 2 is perverse. To substantiate this aspect of the matter the contention of the learned advocate is that the alleged complainants Smt. R. Vasanthamma and Smt. Vijaya Hegde were not examined and also in view of the fact that there is materials that Smt. Vijaya G. Hegde has withdrawn her complaint said to have been made against the first party, the enquiry officer has committed an error in accepting the evidence of

Shri P. N. Bhatt, Officer of Vigilance Unit and Shri Venkataraman, the then Manager, Majleshwaram Circle branch.

9. Against this submission Shri PSS, the learned advocate for the second party has contended that non examination of the complainants in a given circumstances, especially in a domestic enquiry the findings will not vitiate and there is no impediment to accept the evidence of the officers before whom such complaint was made and the Vigilance Officer who has conducted investigation before issuing a charge sheet. The contention of Shri PSS is that the evidence of these two officers is not hear say evidence and therefore, their evidence in the domestic enquiry is acceptable and by accepting a punishment can be imposed on such proved misconduct. The learned advocate has relied on a judgement of the Supreme Court in J. D. Jain Vs. Management of State Bank of India and others reported in AIR 1982 SC 673.

10. In the above decision the facts are that the concerned workman was a cashier at the relevant time. The complainant had a SB account when he received his pass book he found that on an earlier occasion he had withdrawn only Rs. 500 but there was a debit entry of Rs. 1500 he complained to the Ledger Clerk. On scrutiny it was disclosed that the complainant had given a letter of authority on the occasion to the Appellant for withdrawal of Rs. 500 and Appellant had withdrawn Rs. 1500 by inserting the necessary figure. An enquiry was conducted and on the finding of the enquiry officer the workman was discharged.

11. The Industrial Tribunal on a reference has set aside the order of discharge on the ground that the enquiry officer gave his finding on hear say evidence. Speaking on this question the Supreme Court held :—

“The tribunal has committed an error in holding that the finding of the domestic enquiry was based on “hearsay” evidence. The law is well settled that the strict rules of evidence are not applicable in a domestic enquiry. The word “hearsay” is used in various senses. Sometimes it means whatever a person declares on information given by some one else. For the purpose of a departmental enquiry. Complaint certainly not frivolous, but substantiated by circumstantial evidence is enough. What the bank sought to establish in the domestic enquiry was that the complainant had made a verbal complaint with regard to the withdrawal of excess money by the appellant in presence of the four witnesses against his advice. On the complaint the evidence of these four witnesses is direct as the complaint is said to have been made the complainant in their presence and hearing, it is therefore, not hearsay. No rule of law enjoins that a complaint has to be in writing as insisted by the Tribunal.”

12. Shri VSN submits that he had no quarrel over the proposition of law enunciated by the Supreme Court, but according to him the facts of this case not only lead to a conclusion that it is in advantage to hearsay evidence, there is no evidence at all. In support of this contention he has drew the attention of this tribunal to the evidence of MW1 and MW2.

13. It is admitted of no doubt that the second party in spite of their best efforts failed to secure the complainants. Smt. Vasanthamma and Smt. Hegde. In fact some objections are taken with regard to the signature of Smt. Vasanthamma spelt in MEX. 5, MEX. 6 and MEX. 7. Of course MW1 supported that it is her signatures.

14. With regard to the second charge the evidence of MW2 is that Smt. Hegde approached him about shortage of Rs. 10,000 in her account and gave a written complaint MEX. 14 along with counter foil MEX 16 for having credited Rs. 10,000 to her account No. 9318. MW2 further confirmed that MEX 14 and MEX 16 were taken back by the party on the same evening of the complaint i.e. 29-11-94.

15. If we considered this circumstances, there is no doubt in the mind of this tribunal that it is a case not only of hearsay evidence but no evidence. When this is the state of affairs, the enquiry officer has committed an error in holding that the charges 1 and 2 are proved. This is nothing but a perverse finding.

16. Having regard to these facts and circumstances the following order is made :—

### ORDER

The second party are not justified in terminating the services of this workman. Consequently, second party are directed to reinstate this workman immediately to the post he was holding at the time of suspension, since the first party is instrumental to some extent in driving the second party to issue the charge sheet and resultant enquiry, is not entitled for any back wages except the continuity of service. The reference is answered accordingly.

(Dictated to the PA, transcribed by her, corrected and signed by me on 1-10-99.)

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 11 अक्टूबर, 1999

का.प्र. 3221:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन ओवरसीज बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचाय को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-10-99 को प्राप्त हुआ था।

[स. एन-12012/371/96आई आर (बी-II)]  
सी. गंगाधरन, अवसर सचिव

New Delhi, the 11th October, 1999

S.O. 3221.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947, the Central Government hereby publishes the award of the Central Government Industrial Tribunal Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Overseas Bank and their workman, which was received by the Central Government on 8-10-99

[No. 12012/371/96-IR(B-II)]  
C. GANGADHARAN, Under Secy.

### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT : BANGALORE

Dated the 27th September, 1999

PRESENT :

Justice R. Ramakrishna, Presiding Officer.  
C. R. NO. 264/97

### I PARTY

Sri T. V. Thimmappa  
S/o Thirumalaiah,  
Bhoji Colony,  
Molke Imuru,  
Chitradurga-577 535

### II PARTY

The Deputy General Manager.  
Indian Overseas Bank,  
No. 762-Annasalai,  
Madras-600 002

### AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the section 10 of the Industrial Dispute Act, 1947 has referred this dispute vide order No. L-12012/371/96/IR(B-II) dated 29-8-97 on the following schedule :

### SCHEDULE

"Whether the action of the management of Indian Overseas Bank in terminating the services of Shri T. V. Thimmappa w.e.f. 19-7-93 is justified? If not, to what relief he is entitled?"

2. The first party was working as a Peon/Messenger at Kondaluhalli Branch of second party bank at the relevant point of time. He was discharged from service with immediate effect after conducting a domestic enquiry on the allegations contained in the charge sheet, Ex. M1 dated 11-12-91. The charges are related to granting of loan for about 16 persons from 1981, 82, 83 and 84 at the instances and recommendation of the first party. The charge sheet discloses certain acts of commission and omission as follows:—

1. You had recommended various loans and got them sanctioned to your friends and relatives as per details given in annexure A.
2. The borrowers recommended by you were not engaged in the activities for which the loans were granted.
3. You had yourself adjusted certain small loan accounts and recommended to the Manager to sanction fresh loans for higher amounts to avail yourself of the advantage of the loan proceeds.
4. Investigation revealed that the loan amounts have been utilised by you for your benefit.
5. In many cases credits were made to P. B. 28/81, 57/81, 54/81, 41/81, 59/81 and 11/82 by you.
6. All the loans recommended by you are irregular and difficult of recovery. Thus the Bank has been put to wrongful loss and you made wrongful gains.
7. You have misguided the following customers to extend their guarantees to your relatives and friends to obtain loans thereby misusing your official position.

1. Thippurudrappa
2. B. Ramachandra
3. S. C. Veerabadrappanavar
4. K. C. Keshavamoorthy

5. G. V. Veeradrappa
6. V. N. Thippeswamy
7. M. Thippaiah
8. J. C. Ramanjaneya

The above acts if established in an enquiry will constitute gross misconducts for having committed willful damage to the property of the Bank and for doing acts prejudicial to the interest of the Bank within the meaning of para 17.5(d) and 17.5(j) of the Bipartite Settlement dated 14-12-1966 between the Bank and its Workmen as amended upto date which reads as under :—

17.5(d) Willful damage or attempt to cause damage to the property of the Bank or any of its customers.

17.5(j) Doing any act prejudicial to the interests of the Bank or gross negligence or negligence involving or likely to involve the Bank in serious loss.

3. The first party gave his reply which is enclosed as Exhibit M2. The reply is necessary to note and it is as follows :—

1. As I am the resident of Molakalmuru a few residents of Molakalmuru requested me for extending the financial help from our Bank. Conveyed the same to our Manager, Manager asked me to bring those persons to the Branch, after enquiring them personally, I will assure you granting the loans.

I passed on the above message to the natives of Molakalmuru, few persons arrived at the branch and contacted the Manager. Manager assured of granting loans, against third party guarantee, provided the guarantors are from the Kondlahalli. At the time of granting all the borrowers were Petty Shopkeepers.

In view of the above explanation, I have no involvement in recommending and arranging the ineligible persons to avail the loans as was complained against me.

In regard to the Guarantors, I have produced the persons those are willing to avail the loan before the local persons who are the Guarantors to the outstanding loans, and worked them to stand as Guarantors. As borrowers were hailing from Malakalmuru, which is my native place, they were convinced by my presence and agreed to guarantee the said loans. This will never lead to misguiding the Guarantors. At the same time I have not quoted any false information in order to convince them to stand as Guarantors.

2. Except for few cases, where they have newly opened the shops after the grant of loans, others were carrying on the petty business in their residential quarters. This

was interpreted by the borrowers when enquired by the Manager before granting the loans. So, I have neither guided them anything nor involved in convincing the Manager regarding the activity of the borrowers.

3. Repayment of old loans out of the proceeds of new loans disbursed, will never attract my involvement. According to the repaying capacity, some parties have repaid the loans or might have convinced the Manager to grant the loans and appropriate the proceeds of the same towards the closure of the old loan.
4. Cheques drawn by me were paid by the remittance on the day of presentation is true to my knowledge. But, this being my personal transaction, is having no relation with the complaint. Funds for borrowing cheques was arranged by me on my own, it has no coincidence with the loan proceeds of other parties as complained by the complaint.
5. As the borrowers were from my native place when no repayment was forth coming, as advised by the Manager I personally contracted the borrowers and annoyed them of legal action despite they have not turned up to regularise the loans. For the default of others, fundamentally I am not responsible, but as a moral obligation, I am vigorously contacting the borrowers and concentrating on the repayment of the said loan.

4. However, the management decided to conduct a domestic enquiry. The first party participated in the enquiry. The Management have examined altogether 10 witnesses. As good number of documents were marked as Management Exhibits, the first party has not examined himself nor he examined any witnesses on his behalf. The Enquiry Officer on the assessment of evidence, both oral and documentary, came to the conclusion that the first party was guilty of omissions and commissions. This report was accepted by the Disciplinary Authority and consequent to their acceptance this workman was discharged from service vide order dated 19-3-1993. His appeal came to be rejected on 21-10-93.

5. Initially due to the stand taken by this workman on the validity of DE a preliminary issue was framed. To prove this issue the second party examined the Enquiry Officer. The first party examined himself. This tribunal gave its finding on 19-7-99. It was held that the domestic enquiry was conducted in accordance with law. In view of this finding the first party was directed to place materials on the merits of the case which includes the perversity in the findings, bias which victimisation and unfair labour practice if any.

6. Smt. K. S. A. the learned Advocate for the II party has contended that the evidence of the witnesses recorded in the enquiry, Prima Facie proved the alleged misconduct against this workman and therefore the report cannot be termed as perverse.



7. Against this submission the contention of the learned advocate for the I party is while appreciating findings of the Enquiry Officer it is the quality that required to be appreciated as to how the Enquiry Officer was able to appreciate the evidence. According to the learned advocate the evidence placed by the II party is not directly involved the part by this workman, the report is to be treated as a perverse report.

8. The next submission of the learned advocate is that the management have taken a fancy in framing a charge against this workman after a lapse of nearly 10 years, when they are not able to realise the loans given to various persons.

9. It is to be understood that while reaching a conclusion the quality of evidence that required to be appreciated and not the quantity. No doubt the management examined as many as 10 witness. Majority of the witness are guarantors to the debtors of the loan. Some instances are shown as this workman has utilised the loan for himself and was repaid partly in some of the account. Except summing it is extremely difficult to prove such a situation on the basis of the facts and circumstances.

10. While granting a loan it is the duty of the Manager and other Senior Officer of the bank to ensure themselves that the loanee is a deserving person to have the benefit of loan and the object for obtaining the loan is supported by the documents. In some events an officer should visit the places depending on the nature of the loan applied. Sometimes a loan is to be applied for the crop and on some occasions to do some business to improve the economic conditions of an individual. When the Officers failed to follow this and grant loans to the persons, they cannot be permitted to say that due to introduction made by a Peon they have decided to give the loans by overlooking other aspects of the matter. It cannot be out of place to say that some of the social objectives in issuing loans may be highlighted to the villagers as the I party is also from a place called Molakalmur. One cannot draw a conclusion that his recommendation was with a object to get himself benefitted by depriving the loanees. The guarantors were well placed persons in the locality who are enlightened in all these transactions, cannot now permit to say that at a later stage when the followers commit default and the bank proceeds against the guarantor, that he was not aware of the legal consequence. If such a view is accepted banks cannot collect repayment of the loan granted with the principal debtors leaving the guarantors to safety.

11. There is no material what efforts the bank has made from the day of default to collect the outstanding amounts.

12. Because an attender shown some interest in introducing the villagers to secure the loans, on their default, the Attender should not be punished. He might have signed some credit cash vouchers in repayment of the loan to some accounts as all the borrowers are socially and economically backward people and therefore a mere signing of cash vouchers to credit to some

account should be construed that the loan amounts were used by this workman and therefore he was repaying some instalments in his individual capacity.

13. Therefore the Enquiry Officer on the basis of this evidence cannot hold that the II party proved the misconduct of this workman on the evidence. The evidence placed by the Management, as a matter of fact, proved the granting of loans to various persons shown in the list and while granting the loan several persons stood as guarantors and some of the loans were credited to the loan accounts by the I party duly putting his Signature to these Cash payments. These are all the facts which are undisputed. But these facts does not lead to form a case that this workman has involved directly to deprive the financial position of the bank. There is no evidence what action was taken against the Manager and the field Officer who is required to visit and made necessary reports.

14. Therefore, it is travesty to justice that a Peon who orally recommended the loan in rural areas stand to loose his means of livelihood where as the responsible Officials who sanctioned loan under strict policy guidelines and norms will remain untouched. Therefore, the report of the Enquiry Officer is a perverse Order which cannot be accepted to pass an Order of dismissal.

15. Now coming to the delay in issuing the charge sheet the contention of the I party that the delay has affected the right of this workman can be accepted. The delay is unexplainable, therefore there is no impediment to hold that the charge sheet dated 11-12-91 having not issued well in time and also it does not disclose clearly the misconduct perse, it required to be rejected in the interest of justice. In the result I make the following Order.

#### ORDER

16. The II party are not justified in removing the service of this workman on the guise of a charge proved in the Domestic Enquiry. Therefore the Order of termination is hereby set aside. The II party are directed to reinstate this workman immediately to the position he was holding at the time of dismissal. However, having regard to the facts and circumstances, the I party is entitled to 25 per cent of the backwages and continuity of service.

(Dictated to the LDC, transcribed by him corrected and signed by me on 27th September 1999).

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 11 अक्टूबर, 1999

का.आ. 3222.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबंधन के संबंध तथ्यों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बैंगलोर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-10-90 को प्राप्त हुआ था।

[सं.एन.-12010/171/93-आई.आर. (बो-II)]

श्री. गंगाधर, अध्यक्ष



New Delhi, the 11th October, 1999

S.O. 3222.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employer in relation to the management of Vijaya Bank and their workman, which was received by the Central Government on 8-10-99.

[No. L-12012/171/93-IR(B-II)]

C. GANGADHARAN, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated 1-10-1999

#### PRESENT :

Justice R. Ramakrishna, Presiding Officer.

C. R. No. 62/93

#### I PARTY :

Anil Kumar Shetty,  
represented by General Secretary,  
VBEA, 67, KH Rd., II floor, Shantinagar,  
Bangalore-560027

#### II PARTY :

Chairman and Managing Director,  
Vijaya Bank,  
41/2, M.G. Road,  
Head Office,  
Bangalore-560001

#### AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/171/93-IR(B-II) dated 4-11-93 on the following schedule :

#### SCHEDULE

"Whether the action on the part of the management of Vijaya Bank, Head Office in dismissing the services of the workman Shri Anil Kumar Shetty from 15-11-1986 for certain alleged misconduct is justified? If not, what relief, the workman is entitled?"

2. The first party was dismissed from service after holding a domestic enquiry on the allegation of manipulating the books of accounts of the branch and committing acts of frauds amount to acts prejudicial to the interest of the bank and committing breach of rules of business of the bank. Therefore, he has committed a gross misconduct and minor misconduct under clause 19.5(j) and 19.7(d) of DPS. He was kept under suspension on 7-2-85 and the charge sheet was issued on 6-9-85 after a thorough investigation.

3. Ex. M1 is the copy of the charge sheet which runs to 8 pages. In this charge sheet the misconduct of this workman was stated in detail from Sl. No. 1

to 10. On a reading of this charge sheet it is evident that this workman indulged in temporary misappropriation of the amounts belonging to customers by making fictitious entries by fraudulent transfers and he has also used several loose cheques to commit these misconducts. This misconduct covered a period several months during 1984.

4. The records does not disclose that this workman gave any reply to this charge sheet. However, the management conducted a domestic enquiry to prove the charges by appointing an enquiry Officer. In the domestic enquiry the management have examined 9 witnesses and the documents from Ex. ME1 to ME 76 were marked. In addition to that the enquiry officer also marked 4 documents. The proceedings further discloses that this workman has not appeared in the domestic enquiry and he has not cross examined the witnesses who have been examined in the domestic enquiry.

5. This tribunal framed a preliminary issue to give a finding on the validity of DE. After examining the enquiry officer as MW1 and this workman as WW1 this tribunal vide its order 31-5-99 held this preliminary issue in favour of the management. Therefore, the case is adjourned to hear regarding perversity, victimisation, unfair labour practice and proportionality of punishment.

6. Shri PSS the learned advocate for the second party has submitted that the management was able to establish very serious misconduct committed by this workman and those misconducts having proved the order of dismissal which is the proper punishment, does not require any interference.

7. The Joint Secretary of the union who represented this workman has submitted that the perversity in the order of the enquiry officer is apparent as some of the witnesses whose evidence was absolutely necessary to prove some of the misconducts are not examined.

8. To justify this submission the Joint Secretary has filed a written argument.

9. I am not inclined to accept this submission of the Joint Secretary. This workman, as evidenced in the charge sheet has committed gross and serious misconducts. Since he has not participated in the DE and cross examined the management witnesses he lost the right to question the legality of the evidence. Therefore, the evidence of management witnesses stood unchallenged and therefore, it not open for the first party to say that the order of the enquiry officer is perverse.

10. Now coming to the question of punishment, the management have not committed any error as this serious misconduct does not give any right to this workman to work in the banking organisation. When the law is so strict that even for an isolated temporary misappropriation of a bank employee, the punishment of dismissal held to be correct, no lenient view can be extended in favour of this workman. In the result I make the following order :—

## ORDER

The second party are justified in dismissing the services of this workman w.e.f. 15-11-86. The reference is answered accordingly.

(Dictated to the PA, transcribed by her, corrected and signed by me on 1-10-99)

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 11 अक्टूबर, 1999

का.आ. 3223.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण, में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचाई की प्रकाशित करती है, जो केन्द्रीय सरकार को 08-10-99 को प्राप्त हुआ था।

[सं. एल-12012/101/95-आई आर (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 11th October, 1999

S.O. 3223.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workman, which was received by the Central Government on 08-10-99.

[No. L-12012/101/95-IR(B-II)]

C. GANGADHARAN, Under Secy.

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, BANGALORE

Dated : 1st October, 1999

PRESENT:

JUSTICE R. RAMAKRISHNA  
PRESIDING OFFICER

C.R. No. 74/97

<p><b>I Party</b> G. N. Parasuraman, No. 79, Marappa Building, G.M. Palya, New Thippasandra Post, BANGALORE-560075</p>	<p><b>II Party</b> The Dy. General Manager (I.R.), Syndicate Bank Zonal Office, Gandhinagar, BANGALORE-560009.</p>
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## AWARD

1. The Central Government by exercising the powers conferred by clause (d) of Sub-section (1) and Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12012/101/95-IR(B-II) dated 25th August 1995 for adjudication on the following schedule.

## SCHEDULE

"Whether the action of the management of Syndicate Bank, Bangalore in terminating the services of Sri G. N. Parasuraman, Armed Guard w.e.f. 12-8-93 is legal and justified? If not, what relief is the said workman entitled to?"

2. The I party was appointed, as an Armed Guard vide appointment Order Ex. M-1 dated 17-6-85. During 1991 the Bank has found some abnormality in the behaviour of this workman. Therefore he was advised to subject himself for Medical examination at NIMHANS to ascertain his suitability to the job. An introductory letter Ex. M-2 dated 29-1-92 was given to him.

3. The Medical Board at NIMHANS examined this workman and gave a certificate Ex. M-3 dated 30-9-92. In this certificate the I party was diagnosed as a patient of

ALCIHAL DEPENDENCE SYNDROME WITH PHYSCO-SIS NOS. ALCOHOL DEPENDENCE SYNDROME WITH ALCOHOLIC HALLUCINOSIS IN REMISSION. They have also certified that "Review of the past History, it is advised that he has not to be given Arms Duty".

4. In view of this Certificate the II party was reluctant to allow the I party to work as an Armed Guard. However, on the basis of the difficulty expressed by the I party he was asked to work in the Head Office as a Watchman for the time being and he has to produce a fitness certificate within six months to enable the management to decide whether to continue his service or to discharge him of Medical grounds. Since the I party failed to produce the fitness certificate from the NIMHANS and also having observed his continued abnormal behaviour his services are terminated with immediate effect on the ground that he is medically unfit to discharge the duties of Armed Guard.

5. The above facts are undisputed. Therefore, it is not found necessary to advert to the pleadings of the parties. However, the II party was directed to justify their action, without framing any additional issues as the same was found not necessary.

6. The II party examined an Officer of Personnel Section to justify the termination.

7. This witness has deposed that the Bank had a provision to appoint an Armed Guard who is responsible to work as a Watch and Ward of the branch and he has to look after the property of the Bank and also to watch pupil who are coming to the Bank and to find out an suspicious Character. Since he was entrusted to Safeguard the cash inside the bank he was provided with a licenced arm. The Armed Guards should have a licence to hold fire Arms. The post of Arm Guard is not interchangeable.

8. He has further deposed that the I party was appointed under Ex. M-1, after accepting the Terms and Conditions he was allowed to Resume duty. Ex. M-1(a) is the acknowledgement for having accepted the Terms and Conditions, a fire arm was provided to him. He was working at Cantonment Branch.

9. During 1991 the I party was working satisfactorily, there after some abnormal behaviour was noted and therefore he has been directed to get himself examined at NIMHANS vide Order Ex. M-2. After examination he has produced for him to work as an Armed Guard and he is also been diagnosed which is already stated above. Due to his representations Ex. M-4 and Ex. M-5 the bank allowed him to do other duties with an advise that he will once again visit NIMHANS and get fitness certificate to work as an Armed Guard. This direction was given from the letters Ex. M-6 and Ex. M-7. Then they have received Ex. M-8 a letter from the NIMHANS that he is unfit to work as an Armed Guard. Then a showcause notice Ex. M-9 was issued why he shall not be discharged for the reasons stated in the letter Ex. M-8. On the insistence of the I party, he was given one more chance to get himself examined as per Ex. M10. Since the I party has produced no certificate from NIMHANS neither filed any reply to Ex. M-9 even after a reminder Ex. M-11, the management passed a final order discharging him from service as per Ex. M-12.

10. In the cross-examination of this witness nothing much was elicited which will go in favour of this workman and the Cross-examination is just a Routine.

11. Against this evidence, this workman has deposed that he was an Ex-serviceman in the Indian Army. It is his contention that he did not suffer from any abnormality but the II party directed him to produce a fitness certificate if he wanted to continue the job. Then he was provided a Watchman post for some period. With an advise to get a certificate from NIMHANS. When he explained these facts to the Doctors at NIMHANS they have admitted him in the Hospital on 10-8-93 till 23-8-93. His case was referred to the Medical Board and they have issued a certificate dated 23-8-93 as per Ex. W-1. When he produced this documents he was informed that it will not help his case as his services were already removed w.e.f. 12-3-93. There after he raised a conciliation.

12. In the cross-examination this witness has accepted the factual antecedents made out in this case. It has been

suggested to him that Ex. W-1 is a forged documents which is a Xerox copy, which he has denied. It was also suggested to him at no point of time he has produced Ex. W-1, to the Bank seeking his continuation as an Armed Guard. He says that he has not possessing any licence of the Arms.

13. We have heard the learned respective advocates at length to delegate to the Original position from which we have started this case.

14. Shri Siriguppi, the learned advocate for the I party submitted that the II party failed to conduct an enquiry before removing him from service. In support of this proposition, the learned advocate relied on a Judgement of the Supreme Court in *Khem Chand v/s Union of India and others* in Civil Appeal No. 353/97 decided on 13-12-1957.

15. Against this submission Shri PSS the learned advocate for the II party has submitted that this workman was appointed for a specific purpose, to work as an Armed Guard and therefore after finding his unfitness to the post his services cannot be deviated to any other work as it was a special assignment to be given only to a person who had experience in handling fire arms and who will guard the bank from any mischief from out-siders.

16. We have perused the appointment Order where a specific mention is made under Clause 9 :

"You will be medically examined by a doctor appointed by the Bank at the time of joining, you should maintain optical Medical fitness."

17. So if we peruse the certificate Ex. M-3, the Medical Board prohibited handling of any Fire Arms by this Workman after diagnosing his ailment. The I party has not produced a fitness certificate, as directed to him after six months. Infact, he has produced a certificate Ex. W-1 first time before this tribunal which is a document to be viewed with suspension.

18. On a looking at this document there cannot be two opinion that this document is not genuine.

19. However, a long time has been elapsed from the date of discharge and from the date of termination to the day of this judgement. One cannot deprive a man's right to live only because he became unfit to hold particular job due to some Biological Changes. The II party is not entitled to say that they are not the authorities to allot a work other than an Armed Guard to notable to accept that such a thing cannot be done. The appointment Order does not speak facts, his work cannot be deviated. It is something like driving a horse from the lawful custody when it has become physically unfit due to various reasons. This is not the intentment of law or the intentment of any philosophy to deprive a persons right.

20. This workman is fighting this litigation to survive and one cannot say it is sinfull act. Therefore, taking into consideration the object of industrial law, I make the following Order.

#### ORDER

21. The Order of the II party in terminating the service of this workman under Ex. M-12 dated 12-8-1993 is hereby set aside. The II party are directed to reinstate this workman and allot a suitable post like Watchman, Peon or any other Sub-staff work on the same wage scale except the Special Allowance given to an Armed Guard if any. The I party is not entitled for any back wages except the continuity of service. The reference is answered accordingly.

(Dictated to the LDC, transcribed by him, corrected and signed by me on 1st October, 1999).

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 11 अक्टूबर, 1999

का.आ. 3224—औद्योगिक विवाद अधिनियम, 1947  
(1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार  
3142 GI/99—22.

देना बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलोर के पचाट को प्रकाशित करती है जो केन्द्रीय सरकार को 08-10-99 को प्राप्त हुआ था।

[स.सं.-12012/92/94-आई. धारा. (बी-II)]

सी., गंगाधरण, अवर सचिव

New Delhi, the 11th October, 1999

S.O. 3224.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Dena Bank and their workman, which was received by the Central Government on 08-10-99.

[No. L-12012/92/94-IR(B-II)]

C. GANGADHARAN, Under Secy.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 30-9-1999

#### PRESENT:

Justice R. Ramakrishna, Presiding Officer.

C.R. No. 58/94

#### I PARTY

Sri Papanna, M,  
Since deceased represented  
by his legal heirs,  
Smt. G. Umavathi,  
Dena Bank,  
Sona Towers,  
Millers Road,  
Bangalore-52.

#### II PARTY

The Regional Authority,  
Dena Bank, Regional Office,  
No. 71, Sona Towers,  
Millers Road,  
Bangalore-52.

#### AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12012/92/94-IR(B-II) dated 29-6-1994 on the following schedule :—

#### SCHEDULE

- "Whether the action of the management of Dena Bank, Bangalore in removing Shri M. Papanna, Clerk from service w.e.f. 30-6-91 by way of treating him as having voluntarily abandons his services is justified? If not, what relief is the said workman entitled to?"
2. The important question that requires consideration in this dispute is :—
- "Whether the management can take into consideration the finding of an enquiry officer appointed to go into the matter of unauthorised absent or the termination of the workman by invoking clause XVII of the BPS?"

3. The admitted facts are that this workman was working as a Clerk was found most irregular in the attendance from the year 1990. At some instances he has intimated the bank of his intention to remain absent without there being any valid grounds and on many occasions he was remained absent without any intimation. At one point of time the bank has conducted a domestic enquiry for the unauthorised absent by appointing an Enquiry Officer. The enquiry officer gave a finding against the workman as the unauthorised absent was

not a serious problem to prove. The management has not taken any action on the report of the enquiry officer. They resorted to issue a notice under clause XVII intimating the workman his unauthorised absent for more than 90 days and his intention in not interested to attend the bank duties and also calling upon him to report for duty within 30 days with sufficient explanation or to intimate the reason for not reporting for duty within 30 days. In addition to a notice under RPAD, paper publication was also made in the Standard Daily Newspapers of Bangalore and thereafter they have removed him from service on the ground that he has voluntarily retired.

4. The pleadings of both parties does not give any different picture than what is stated above.

5. To justify their action the management examined 3 witnesses on their behalf. There was no scope for framing any additional issues. We have straight away came to the merits of the case. Unfortunately this workman died during 1998. Therefore, there was no scope to record evidence on his behalf as the legal representatives cannot give the evidence to this workman of the events that took place which led to his termination.

5(a). MW1 was the Branch Manager. He has stated in his evidence that during the month of April 1991, the workman was absent whole month. At that time there was no leave available at his credit. He did not had any kind of leave including sick leave. He was again absent during May 1991 for the whole month. He was found absent unauthorisedly from January 1991 to 30th June, 1991. He has not sent any communication during these months. His attendance earlier to January 1991 was also most irregular. Bank has not paid any salary from January 1991 as his absence was unauthorised and there was no leave at his credit. To substantiate this, this witness has produced attendance registers and salary registers marked as Exs. M1 and M2.

6. His further evidence is that he wrote a letter to the Regional Authority informing the absence of this workman and as per the direction he sent a telegram to the workman with intimation to Regional Office. They have not received any reply, therefore, he addressed several letters to this workman. He has further deposed that as there was no representation from this workman, his conduct was intimated to Regional Authority and another telegram was sent intimating him to report for duty. One more telegram was sent but they have not received any answer from the workman. He has further deposed a domestic enquiry was also conducted commencing from 4-1-1991 for his absence during 1990. Though this workman attended the enquiry he did not attend the duty after the enquiry. Thereafter a paper publication was given by the Regional Authority as per Ex. M12. A notice under RPAD was also sent which was returned with a shara that the party has not claimed. Thereafter an order was passed removing the name of the workman from the rolls of the bank as per Ex. M14. Later this workman sent a mercy petition dated 24-6-1993 as per Ex. M15, but the same was not accepted.

7. The second witness was examined to show that he conducted a domestic enquiry on the allegation of charge relating to the unauthorised absence. The workman appeared along with his DR and after recording the evidence and doing other formalities he gave a report as per Ex. M19 that the unauthorised absent was proved.

8. The evidence of MW3, the Manager (Personnel) is only to the extent that the removal of this workman is by invoking clause XVII of the BPS.

9. An isolation answer from MW3 that the deceased workman was dismissed on the basis of a report made by MW2 under Ex. M19 provoked the learned advocate for the first party to twist the facts of this case to the prejudice of the workman. This was not accepted.

10. It is evident this workman has remained absent without proper leave application. It is not disputed he has put up a long service in this bank from the stage of peon to clerk. His mercy petition Ex. M19 shows that due unbearable mental agony created in the family affairs has made this

workman to loose interest in the life and the said difficulty was set right due to employment in the family conditions.

11. The assessment of the facts and circumstances, the second party are right in treating the continuous absence of this workman as a voluntary retirement as per Ex. M14 dated 6-6-1991.

12. This workman died on 13-7-1998 as per the death certificate enclosed to the application to bring the legal representatives on record. The legal representatives are Smt. G. Umavathi, wife Babuprasad, Son, aged about 21 years and Soumya, daughter, aged 18 years.

13. This workman by his irresponsible act remained absent and thereby he is the cause for his removal. But he has left behind him a wife and two children who have to exist in the absence of an earning member i.e. this workman. Therefore, there is no impediment to invoke Section 11A to extend some relief to the legal representatives. In good number of cases this tribunal after giving a decision in favour of the management in the cases where clause XVII was invoked has also passed orders for reinstatement of the workman without back wages. The continuity of service was ordered in almost all the cases of this nature. We cannot reinstate this workman as he is no more. Therefore, there is no impediment to pass an order of reinstatement though it cannot be executable. This method is required to be adopted only to give a legal status to the family members that this workman died while he was in service. The continuity of service allows him to have the benefit of service but not any monetary benefits. If such a view is taken there would not be any impediment for the management to extend any work to one of the legal representatives on compassionate ground. By providing a work to one of the legal representatives in the family, a long service rendered by this workman will get a recognition for the family to exist. Having regard to these facts and circumstances the following order is made:—

#### ORDER

The second party are justified in treating the deceased workman as voluntarily retire under clause XVII of the BPS. However, invoking Section 11A of the Act the second party are directed to reinstate the workman to his original position. Since the workman died during the pendency of this dispute, the management are directed to treat the death of the workman occurred during his service and appoint any of the legal representatives who was suitable for any job on compassionate grounds. The reference is answered accordingly.

(Dictated to the PA, transcribed by her, corrected and signed by me on 30-9-1999).

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 11 अक्टूबर, 1999

का.प्रा. 3225.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय, में, केन्द्रीय सरकार कारपोरेशन बैंक के प्रबंधन के संबंध में, केन्द्रीय और उनके कर्मचारों के बीच, अन्वय में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-10-99 को प्राप्त हुआ था।

[सं. एल-12012/56/93-आई. आर. (बी-II)]

सी, गंगाधर, अवर सचिव

New Delhi, the 11th October, 1999

S.O. 3225.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore, as shown in the Annexure in the Industrial Dispute between the employers in relation to

the management of Corporation Bank and their workman, which was received by the Central Government on 08-10-99.

[No. L-12012/56/93-IR(B-II)]

C. GANGADHARAN, Under Secy.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated: 1-10-99

#### PRESENT:

Justice R. Ramakrishna, Presiding Officer.

C.R. No. 45/93

#### I PARTY

The Vice President,  
Corporation Bank Employees' Union,  
D-7, III floor, "Jasmine Park",  
Near Vinaya Clinic,  
Karangalpadu,  
Mangalore-575003.

#### II PARTY

Corporation Bank,  
Head Office,  
Mangalore-575001,  
By its Chairman.

#### AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12012/56/93-IR (B-II) dated 30-7-1993 on the following schedule:

#### SCHEDULE

"Whether the management of Corporation Bank is justified in dismissing Shri V. K. Vishnu Nayak from service w.e.f. 2-8-91? If not, what relief the workman is entitled to?"

2. The first party during 1991 was working as a Clerk at the Varamballi Branch of the second party Bank. The management having found that this workman has committed a gross misconduct under clause 19.5(j) of the BPS have issued charge sheet-cum-suspension order dated 3-1-91 as per Ex. M2. The workman has not given any immediate reply to this charge sheet. The management appointed an officer of the bank as an enquiry officer to conduct the domestic enquiry. This workman has participated in the enquiry along with a defence representative. After conclusion of the enquiry the written briefs of the workman was obtained and thereafter the enquiry officer gave his findings as per Ex. M5. This report is on the basis of the oral evidence and documentary evidence placed by the management. The workman has not examined any witnesses nor he has rendered his evidence. The enquiry officer also relied on a letter of this workman Ex. M7(e) where he has accepted the report of the Enquiry Officer and after giving opportunity to this workman taking into consideration the gravity of the misconduct an order of dismissal was made which was later confirmed by the Appellate Authority.

3. A brief advertise to the charge is necessary and it is as follows:—

- (a) That on 10-4-90, the workman made a fictitious credit entry of Rs. 10,000 in the S.B. Account bearing No. 3629 of one Sri Devaraya Shenoy, which was an inoperative account since 28-11-86.

That on 30-4-90 the workman without authority from the Account Holder obtained a cheque book containing 20 leaves bearing No. 721781—721800 and acknowledged the same in the Cheque Issue Register.

That the workman deliberately made a wrong entry in the SB Account Ledger Folio regarding the issue of cheque book by wrongly mentioning the date of issue as 10-4-90.

That on 24-5-90 the workman withdrew a sum of Rs. 10,000 by cheque No. 721784 and utilised the amount for his personal requirements.

That in order to conceal the above fraud the workman continued to work on extracting savings bank balancing in respect of SB Binder No. 5 (which contained the account Number 3629 also) from April 1990 to December 1990 and made several wrong entries in different accounts.

That the above fraud came to light on 16-11-90 when Smt. Usha Gunapal, an officer noticed a different of Rs. 10,000 while tallying the balance, which was found to be a result of the actions of the first party workman in making the wrong entries.

That the workman voluntarily gave a letter dated 24-11-90 to the Manager of the Branch admitting having made the fictitious entries, having utilised an amount of Rs. 10,000 for his personal use and further undertaking to reimburse the said amount of Rs. 10,000.

That on 1-12-90, the workman had deposited the said sum of Rs. 10,000 for being credited to the SB Account of the party."

4. However, taking into consideration the contention of the first party as it regards to the domestic enquiry, this tribunal framed a preliminary issue to give a finding on the validity of DE. After recording the evidence of the enquiry officer and this workman a considered order was passed holding the preliminary enquiry in favour of the Second party.

5. Shri KDH the learned advocate for the first party has submitted that taking into consideration the admission of this workman that he has committed the offence, this tribunal can take that fact into consideration and extend the benevolent provisions contained under Section 11A and to give appropriate punishment other than the order of dismissal. Against this submission Shri PSS learned advocate for the second party has contended that the misconduct committed by this workman is serious in nature and a mere admission will not mitigate the seriousness of the offence and the bank has lost confidence on the integrity of this workman, it is in the interest of justice the order of dismissal does not call for any interference.

6. A misconduct against this workman is amply proved not only by his admission but also by independent evidence. Though the workman says due to some financial difficulty he has resorted to commit this misconduct it does not ensure to his benefit to give any lesser punishment than the order of dismissal. The law is declared by the pronouncement in —

- (1) D. Padmanabudu Vs. Bank of India and Anr., 1995 (1) ILJ, 1076.
- (2) Union Bank of India Vs. Vishwa Mohan, AIR 1998 SC 2311-1998 LAB IC 2514.
- (3) Municipal Committee Bhahadurgad Vs. Kishen Behan 1996 LAB IC 1056.
- (4) State of Karnataka and Others Vs. H. Nagaraja JT 1998 (9) SC 37.
- (5) Union of India Vs. Parmananda, JT 1989 (2) SC. 132.

#### ORDER

Having regard to the facts and circumstances the second party are justified in dismissing the services of this workman on a proved misconduct. The reference is answered accordingly.

(Dictated to the PA, transcribed by her corrected and signed by me on 1-10-99.)

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 11 अक्टूबर, 1999

का.आ. 3226.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, असुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-10-99 को प्राप्त हुआ था।

[सं. एल-12012/40/93-आई.आर. (बी-II)]

सी. गंगाधरन, प्रवर सचिव

New Delhi, the 11th October, 1999

S.O. 3226.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Vijaya Bank and their workman, which was received by the Central Government on 8-10-99.

[No. L-12012/40/93-IR(B-II)]

C. GANGADHARAN, Under Secy.  
ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT, BANGALORE

Dated : 1-10-99

PRESENT :

Justice R. Ramakrishna, Presiding Officer.

C.R. No. 47/93

I PARTY

Sri I. Shankar Shetty  
S/o Sri R. V. Shetty  
Residing at Sheetal Kuteer  
Near Taluk Office,  
P.O. Karkala  
Dakshina Kannada Dist.  
(Karnataka).

II PARTY

The Management of  
Vijaya Bank,  
Head Office,  
14, M.G. Road,  
Bangalore-560 001.

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12012/40/93-IR(B-II) dated 29-7-1993 on the following schedule :

SCHEDULE

"Whether the action taken by the management of Vijaya Bank in invoking the provisions of

para XVI of the Bi-partite Settlement and treating Shri I. Shankar Shetty as voluntary retired from service w.e.f. 19-3-87 is justified or not? If not, what relief the workman is entitled to?"

2. The second party terminated the services of the first party, invoking the provisions of clause XVII of the BPS treating that he has voluntarily retired from service as this workman remained absent unauthorisedly during the relevant period.

3. The first party was joined the services of the worked in some of the branches on 1-8-74. He has worked in some of the branches at Mangalore. In the month of June 1983 the first party was transferred to Ulsoor branch at Bangalore city. But he has joined the duty at Bangalore on 9-6-84. After working for few days he remained absent from 11-6-84 onwards. His absence was continuous in the years 1985 and 1986. He reported for duty on 16-9-86 and worked upto 21-9-86. Thereafter he remained unauthorisedly absent and never reported for duty, therefore, the second party invoked clause XVII of BPS.

4. The first party in his claim statement took up a contention that the climate condition of Bangalore was not suitable to him and therefore he was taking treatment at Karkala as he was suffering from "IDIO PATHIC EPILEPSY". However, he made an attempt to report for duty but he was not allowed to resume duty as his name was already struck off by an order dated 19-3-87. His contention is that due to illness he was not able to attend the duty and he has continuously sending leave applications in this regard.

5 Since the points of dispute does not give rise to frame any additional issue, the parties are directed to place their evidence on the merits of the case.

6. The second party to justify their action have examined an Officer as MW1.

7. This witness who is presently working as Sr. Manager, Personnel Department deposed that he know the first party was appointed on 1-8-74. In the year 1983 he was transferred to Ulsoor Branch at Bangalore. Though he has received the transfer order he has not reported for duty for a very long period and later reported for duty on 9-6-84. Immediately thereafter he remained absent continuously till 15th September 1986. He again reported for duty on 16-9-86 and worked upto 21-9-86. Thereafter he remained absent continuously from 22-9-86. Therefore, the management have issued a notice Ex. M1 dated 23-1-87. This notice was duly served as per the acknowledgement Ex. M1(a). The first party has not reported for duty even after receipt of Ex. M1. In view of this the bank has passed an order dated 19-3-87 as per Ex. M2. As per the notice the first party was expected to report for duty on or before 22-2-87. Infact he has not sent any communication after receiving Ex. M1.

8. He has further stated that the bank is able to secure an affidavit filed by this workman in OS No. 323/98 on the file of the Civil Judge, Udupi as per Ex. M3. In that affidavit it is revealed that this

workman was working as a Manager in a hotel at Bombay. Attendance Registers Ex. M4 to M7 were produced to justify that this workman was absent as stated in the evidence.

9. In the cross examination of this witness, it is elicited that the workman has produced two medical certificates as per Ex. W1 and W2. He has also sent a letter dated 23-9-86 and 4-3-87. The other questions to this witness are routine in nature.

10. Against this evidence this workman has deposed that though he has received a notice directing him to report for duty within 30 days he has not able to report as he was suffering from sickness. He conveyed his disability on 3-3-87 when he went to the bank for reporting to the duty.

11. In the cross examination this witness has admitted though he has received Ex. M4 he did not report for duty within 30 days. He has admitted the affidavit Ex. M3 filed in the original suit. He has given a representation to the management on 20-5-87 marked as Ex. M9. He has denied that he was doing hotel business at Bombay.

12. The pleadings and evidence is admitted of no doubt that this workman after he was transferred to Bangalore has not worked at that branch except few days in two years duration. He has produced 2 medical certificates on 1987 from a doctor, Udaykumar Hegde at Karkala. He is aware of the fact that every workman should justify their ailments by getting treatment from a Govt. hospital or from the doctors appointed by the bank for this purpose. The first party has not produced any acceptable material, to justify that his absent was due to some bona fide reasons. It is not out of place to say that the presence of every workman in daily work is absolutely necessary. If one remained absent unauthorisedly, lot of problems will be created and there will be disruption of banking activities. Admittedly he has received a notice Ex. M1 issued under the provision of clause XVII but he has not reported for duty and he sent any reply to that notice. He cannot simply say that due to his illness he was not able to reply unless such fact is established to the satisfaction of the management and also to the tribunal. The mere statement cannot be accepted without any proof.

13. The management having waited for so many months for this workman to restore his work have issued notice Ex. M1 indicating thereon that he has no intention to join duty as it is evidenced by long absence. Thereafter the services were treated as voluntarily retired by an office order Ex. M2 dated 19-3-87. Ex. M3 is the certified copy of an affidavit filed before the Civil Judge, Udp! where this workman stated an oath that he is managing hotel at Bombay. This affidavit is dated 22-6-1994.

14. The facts and circumstances of this dispute discloses that the first party has violated the leave rules and also remained absent unauthorisedly on the ground of illness which is not proved. Therefore, the second party are justified in invoking clause XVII of BPS to treat this workman as voluntarily retired.

There is absolutely no error committed by the management in terminating the services of this workman.

15. Having regard to these facts and circumstances the following order is made:—

#### ORDER

The second party are justified in involving clause XVII of the BPS and treating the first party as voluntarily retired from service with effect from 19.3.87. The reference is answered accordingly.

(Dictated to the PA, transcribed by her, corrected and signed by me on 1-10-99).

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 11 अक्टूबर, 1999

का.आ. 3227.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गत् में, केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन के संबंध में जहाँ और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, गुवाहटी के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-10-99 को प्राप्त हुआ था।

[नं. एल-12011/69/98-आई आर. (बी-11)]

सं. गंगाधरण, जबर सचिव

New Delhi, the 11th October, 1999

S.O. 3227.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Guwahati as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman; which was received by the Central Government on 08-10-1999.

[No. I-12011/69/98-IR(B-11)]

C. GANGADHARAN, Under Secy.

#### ANNEXURE

IN THE INDUSTRIAL TRIBUNAL: GUWAHATI:

ASSAM

Reference No. 17(C) of 1999

PRESENT:

Sitri K. Sarma, LL.B.,  
Presiding Officer,  
Industrial Tribunal,  
Guwahati.

In the matter of an Industrial Dispute:

BETWEEN

The Management of  
Central Bank of India,  
Guwahati.

Vs.

Their workmen rep. by General Secy.,  
NERCBE Union,  
Regional Office,  
Silpukhuri,  
Guwahati.

Date of Award: 16-9-99

## AWARD

This reference arising out of the Government Order No. L-12011/69/98/IR(B-II) dt. 28-4-99 relates to the dispute indicated in the schedule below:

"Whether the action of management of Central Bank of India, Guwahati in giving placement order to Sh. N. C. Borah and Sh. P. C. Barua as Head Cashier(E) disregarding the seniority list as on 1-1-98 is justified?"

If not, what relief S/Sh. Shiv Nath Choudhury, P. Baruah, Prabeen Hazarika, Bhubneshwar Das, L. Dutta, H. N. Barua, Abhay Kr. Dey featuring at Sl. No. 21(A), 26, 32, 33, 78, 81 respectively of the seniority list as against these two employees who feature at Sl. No. 299 and 290 respectively are entitled to?"

In this reference case, notices upon both the parties are served. The management is present for 3 dates after receiving notice. Workmen are continuously absent without step. From the conduct of the parties, I am of opinion that there exists no dispute between the parties and hence this reference is disposed of by passing a no dispute award. Prepare an award accordingly.

I give this award on this the 16th Sept., 99 under my hand and seal.

K. SARMA, Presiding Officer

नई दिल्ली, 11 अक्टूबर, 1999

का.आ. 3228:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में केन्द्रीय सरकार युनियन बैंक ऑफ इंडिया के प्रबंधन के संवर्धन नियोजकों और उनके कर्मचारों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिग्रहण II, मुम्बई के पंचाट को प्रकाशित करती है जो केन्द्रीय सरकार को 8-10-99 को प्राप्त हुआ था।

[स. एल-12012/16/98-आईआर (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 11th October, 1999

S.O. 3228.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-II, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Union Bank of India and their workman, which was received by the Central Government on 8-10-1999.

[No. L-12012/16/98-IR(B-II)]

C. GANGADHARAN, Under Secy.

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, MUMBAI

PRESENT:

Shri S. B. Panse, Presiding Officer.  
Reference No. CGIT-2/132 of 1998

PARTIES:

Employers in relation to the management of Union Bank of India.

The Chief Manager,  
UBI,  
Zonal Office,  
Staff Section,  
M.B. Zone-II,  
UB Bhawan,  
239, Backbay Reclamation,  
Mumbai-400012.

## AND

Their Workmen.

Shri V. V. Solanki,  
Progress V Chawl No. 12,  
Room No. 18,  
Doctors Compound,  
Dataram Lad Marg,  
Chinchpokli,  
Mumbai-400012.

## APPEARANCES:

For the Employer : Mr. D. M. Utekar & Ms. Anupama Rao, Advocates.

For the Workmen : : Mr. M. B. Anchan, Advocate.

Mumbai, dated 20th September, 1999

## AWARD—PART-I

The Government of India, Ministry of Labour by its Order No. L-12012/16/98-IR(B-II), dated 8/9-10-98 had referred to the following Industrial Dispute for adjudication.

"Whether the action of the management of Union Bank of India in terminating the services of Shri V. V. Solanki is legal and justified? If not, to what relief the said workman is entitled?"

2. V. V. Solanki (hereinafter referred to as the workman) contended that he was an employee of Union Bank of India (hereinafter referred to as the bank). On 13-4-94 a chargesheet was issued to him for alleged misconduct of abusing the superiors in the filthy language, disorderly and indecent behaviour in the banks premises and for borrowing money from the outsiders.

3. The workman pleaded that on 26-2-94 even though he was not on duty he attended to the bank for collecting his salary which was not paid to him for many days. He was facing acute monetary shortage. He inquired regarding his salary with G. P. Warlekar officer looking after the salary. The workman was informed that he is not entitled to any salary due to his frequent absence and pending recoveries. He told the officer that there is sufficient leave to his credit. On that moment he was asked to leave the office. The workman was not getting proper replies from the officer. Due to the frustration he lost his balance and there was an altercation with the staff officer. In that he uttered something when he was not in a proper state of mind. He relies on the same. He went to the Deputy General Manager. He assured him that a lenient view will be taken in the matter. The workman pleaded guilty. Subsequently he was issued with a chargesheet as stated above.

4. The workman pleaded that a domestic enquiry was conducted against him was against the principles of natural justice. The bank did not examine anybody as the witness except production of the alleged report dtd. 25-2-94 of Mr. Warlekar, the staff officer. The copy of the report was also not given to the workman. It is averred that after the completion of the inquiry he was not issued with a show cause notice of proposed penalty but he was given a personal hearing but that is not proper procedure. As the show cause notice was not issued the inquiry is against the principles of natural justice.

5. The workman pleaded that the findings of the inquiry officer are perverse. It is prayed that under such circumstances he may be reinstated in service in continuity with full back wages.

6. The bank resisted the claim by the written statement (Ex-8). It is averred that the inquiry which was conducted against the workman was as per the principles of natural justice and the findings of the inquiry officer are not perverse. It is averred that the workman behaved disorderly. He abused the superiors and later on he confessed regarding his case and submitted the same in writing to the superiors. He also pleaded guilty of the charges which were explained to him and as such there was no need for the bank to examine any witness. He was given full opportunity for the proposed punishment by the concerned officer. It is averred that under such circumstances the inquiry which was held against the workman was as per the principles of natural justice.



7. The bank submitted that there is no justification for workman for any reliefs as claimed, and the reference deserves to be answered in favour of the bank.

8. The issues are framed at Exhibit-10. The issues and my findings there on are as follows :—

Issues	Findings
1. Whether the domestic inquiry which was held against the workman was against the Principles of natural justice?	No
2. Whether the findings of the inquiry officer are perverse?	No

#### REASONS

8. The workman filed a purshis (Ex-12) contending that he does not want to lead any evidence. The bank filed a purshis (Ex-13) that they also do not want to lead any oral evidence in the matter.

9. The management filed its written argument at Exhibit-14 and the workman at Exhibit-15. They relied upon the documents.

10. From the perusal of the documents which are at Exhibit-6 & 9 and from the written arguments it cannot be said that the inquiry which was held against the workman was against the principles of natural justice. The inquiry proceedings are at Exhibit-6/1. A chargesheet was issued to the workman and he was asked whether he pleads guilty to the charges levelled against him. He in categorical term states that he admits the charges. Not only that he states that he had done so by his letter dtd. 17-3-94 and further states that he had mentioned the circumstances under which he committed those acts. He requested the inquiry officer to take the letter on the record. I do not find any reason for coming to the conclusion that the inquiry which was conducted against the workman was against the principles of natural justice.

11. So far as the findings of the inquiry officer are concerned they are at Exhibit-6/2. After perusal of the inquiry report it can be seen that the inquiry officer had given in detail the chargesheet which was issued to him. Then he had categorically discussed the letter which was submitted by the workman confessing the charges. The letter is dtd. 17-3-94 (Ex-9/1). He was also given a personal hearing on 22-7-94 (Ex-9/2). The minutes of the personal hearing dtd. 6-10-94 at Ex-9/5. Looking to the charges and the admission of the guilt by the workman the inquiry officer did not find it necessary to go further in the matter. His report is based on the evidence viz. the admission of the workman and his letter. I do not find any perversity in the same. In the result I record my findings on the issues accordingly and pass the following order :—

#### ORDER

The domestic inquiry which was held against the workman was as per the principles of natural justice.

The findings of the inquiry officer are not perverse.

S. B. PANSE, Presiding Officer

नई दिल्ली, 12 अक्टूबर, 1999

का.प्र. 3229:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वये केन्द्रीय सरकार इंडियन आयल कार्पोरेशन लिमि. के प्रबंधन के संबंध निरोधकों और उनके कर्मचारों के बीच, अन्वये में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, गुवाहाटी के पंचाट को प्रकाशित करती है जो केन्द्रीय सरकार 7-10-99 को प्राप्त हुआ था।

[सं. एल-30012/14/96—आई आर (सी-1)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 12th October, 1999

S.O. 3229.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Guwahati as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Oil Corporation Ltd. and their workman, which was received by the Central Government on 7-10-99.

[No. L-30012/14/96-IR(C-D)]

N. P. KESAVAN, Desk Officer

#### ANNEXURE

IN THE INDUSTRIAL TRIBUNAL, GUWAHATI,  
ASSAM

CASE NO. 9(C) OF 1997

PRESENT :

Smt. K. Sarma, LL.B., Presiding Officer Industrial Tribunal, Guwahati.

In the matter of an Industrial Dispute

AND

In the matter of an application under section 33-A of the Industrial Dispute between:

Shri. Mukti Hazarika,

Vs.

The Management of Indian Oil Corporation (Assam Oil Division) Digboi.

Date of Award : 2-9-99.

#### AWARD

This is an application under section 33(A) of the I.D. Act filed by the workman Shri Mukti Hazarika against his management Indian Oil Corporation (Assam Oil Division) Ltd. Digboi issuing direction to the said management not to disturb the occupation of quarter No. 787-I occupied by the petitioner/workman at Station Road, Digboi or for staying the operation of impugned order No. ERS. 1375/60-97 dated 12-8-97 issued by said management.

The fact of the case, in brief, is that the petitioner/the workman M. Hazarika was a employee of Indian Oil Corporation (Assam Oil Division) Digboi and worked as Store Keeper in the Drum Plant of the Refinery. A departmental proceeding was held by the management against the workman for alleged loss of 193 MT Soda Ash value of which is nearing Rs. 19 Lakhs and on completion of enquiry, he was dismissed from service w.e.f. 16-5-95. During service period the workman occupied the aforesaid quarter allotted by the company in terms and condition mentioned in exhibit-A. On his dismissal from service, management issued aforesaid order against him directing him to vacate the quarter immediately. On receipt of said order the workman has filed a writ petition before the Hon'ble High Court, Guwahati seeking direction not to disturb him in occupation of quarter till disposal of the Industrial dispute raised by him against the order of dismissal. It is to be mentioned that against the order of dismissal, the workman has raised the industrial dispute before the appropriate Government who ultimately referred the matter to this tribunal for adjudication which was registered as Ref. Case No. 5(C)97. As the dispute was referred to this tribunal for adjudication, the writ petition filed before the Hon'ble High Court in connection with quarter occupied by the workman has become infructuous and same was accordingly dismissed vide order dated 16-5-97, xerox copy of which is exhibited in this case as Ext. 3. After dismissal of said writ petition the workman has filed this petition before this tribunal under section 33 A of I.D. Act seeking relief already mentioned above which was registered as Misc. Case No. 9(C)97. In the said petition the workman has contended, inter alia that he was illegally dismissed by the management from his service and against said illegal order he has raised the Industrial Dispute. It is also contended that his wife Mrs. Manani Hazarika is a Psychiatric patient and he was also illegally dismissed from the service, and in such a crucial juncture, if he is compelled to vacate the quarter, it will cause a great deal of mental

agony and hence he prays for issuing direction to the management not to disturb the occupation of the quarter.

The management, by filing written objection against the petition, contended inter alia that allotment and cancellation of quarter is not a service condition and no petition under section 33A of I.D. Act lies, unless there is the violation of any of the condition mentioned in section 33 of the I.D. Act. According to management, the allotment of the quarter is governed by the condition mentioned in exhibit 'A' and hence the workman should vacate the quarter at the moment he is dismissed from his service. It is also contended that after dismissal of the workman, there exist no relationship between employer and employee and hence condition governing allotment of quarter ceased to exist and the workman has no right to occupy the quarter. In support of his contention, that allotment or cancellation of quarter is not a service condition and no petition under section 33A of the I.D. Act lies, the learned counsel for the management has drawn my attention to 1997 LAB. I.C. page 2994.

The learned advocate for the workman on the other hand contended that allocation or cancellation of a quarter to an employee in his service condition and alteration of such condition during pendency of any Industrial Dispute, the management is actionable under section 33A of I.D. Act and present petition apparently lies under said section of law. The learned counsel for the workman has relied upon his submission on "Rasila Ram and Others vs. Union of India & others (CAT) Page 346" where it is held that allotment and cancellation of the quarter and the consequent order of eviction and charging of penal rent are also service matters". His further contention is that after his dismissal from the service, the workman challenged the order of the management by raising an Industrial Dispute before this tribunal. REF. No. 5(C)97 and hence the management should not issue any order directing the workman to vacate the quarter until and unless dispute raised by him is finally decided by the tribunal. From this aspect, he submit that the order of the management directing the workman to vacate the quarter is bad in law and is liable to be set aside by tribunal.

I have carefully considered the submission raised by the learned advocate, for both the parties and perused the record. From perusal of record, I find that during his service period workman has occupied the company quarter. But after his dismissal, he was directed by the management to vacate the quarter. But immediately after dismissal from the service, the workman has raised Industrial Dispute. An per condition laid down i.e. ext. 'A' is the memorandum of agreement signed between management and workman, the workman should vacate the quarter on receipt of notice from the management. But in this case the workman was dismissed from the service by the management and he has challenged the said order of dismissal before the tribunal. So until and unless the tribunal has finally decided this dispute arising out of his dismissal, the condition laid down in ext. A shall be deemed to be in force between them. Moreover, the quarter has been occupied by the workman with his family who is stated to have suffered from psychiatric patient.

So far as the maintainability of petition under section 33A of the I.D. Act is concerned, I find that the learned counsel for the management has relied upon the case law LAB I.C. (1997) page 2994. From perusal of aforesaid decision, I find that the Hon'ble Gujarat High Court has held that when an employee has resigned from the service, he has no right to occupy the quarter allotted to him. But present case is not relating to a case of resignation. It is a case of dismissal from the service which is challenged before the tribunal. This being so, the instant case law referred to by the learned advocate for the management is not applicable in this case. But in Rasila Ram and others Vs. Union of India & others (CAT) page 346, it has been clearly held as follows: "Service matters. Section 3(O) of A.T. Act, eviction—Held allotment and cancellation of it being service matters, the consequent order of eviction and charging penal rent are also service matters". Para 8 "The public premises has its own identity and occupants of public premises can not be classified between Government and non Government servants as that would be against Article 14 of the Constitution. All occupants of public premises must be grouped together under the P.P. Act, Section 14 of the A.T. Act provides that

the Tribunal will have jurisdiction, power and authority exercisable by all courts in relation to recruitment, service matters etc. But as the state Officer is not a court, the jurisdiction of the Estate Officer and the District Judge would not be transferred to the Tribunal". The principle of law laid down of the Hon'ble Central Administrative Tribunal in aforesaid case has clearly laid down that allocation and cancellation of quarter and subsequent order of eviction are service condition. In the instant case also the workman was directed to vacate the quarter otherwise, he is threatened to be evicted from it. As the earlier allotment of the quarter is a service condition and subsequent order of eviction is violation of such condition during pendency of Industrial Dispute, the action of the management apparently violates the condition laid down section 33 and hence they are actionable under section 33A of the I.D. Act and present petition is accordingly maintainable.

For the reason stated above I hold that the management is not justified in directing the workman to vacate quarter or threatening for eviction till Industrial Dispute raised before this Tribunal is finally decided on merit. If the verdict of the tribunal regarding dismissal of the workman in Ref. Case No. 5(C)97 raised by the workman against the order of his dismissal goes in favour of the workman, workman should not be evicted from the quarter and shall be allowed to continue. With aforesaid observations this petition is finally disposed.

I give this award on this the 2nd September, 1999 under my hand and seal.

K. SARMA, Presiding Officer

नई दिल्ली, 12 अक्टूबर, 1999

का.सा. 3230.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूच में केन्द्रीय सरकार इंडियन ऑयल कॉर्पोरेशन लिमि. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, गुवाहाटी के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-10-99 प्राप्त को हुआ था।

[मं. एन-30012/14/96-आई आर (सी-1)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 12th October, 1999

S.O. 3230.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Guwahati as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Oil Corporation Ltd. and their workman, which was received by the Central Government on 7-10-99.

[No. L-30012/14/96-IR(C-1)]

N. P. KESAVAN, Desk Officer

#### ANNEXURE

IN THE INDUSTRIAL TRIBUNAL, GUWAHATI ASSAM  
Reference No. 5(C) of 1997

#### PRESENT:

Shri K. Sarma, LL.B., Presiding Officer, Industrial Tribunal, Guwahati.

In the matter of an Industrial Dispute between :  
The Management of Indian Oil Corporation Ltd. (Assam Oil Division).

Vs.

Shri Mukti Hazarika,  
Sr. Store Keeper.

#### APPEARANCE:

Shri S. Sarma, Advocate : For the Management.  
Shri A. Roy, Advocate : For the Workman

Date of Award : 6-9-99.

### AWARD

This Industrial dispute has been referred to by Desk Officer, Government of India, Ministry of Labour vide Memo No. L-30012/14/96-IR(C-I) dated 19-3-1997 to adjudicate the dispute between the management of Indian Oil Corporation Ltd. (Assam Oil Division) and workman Shri Mukti Hazarika, arising out a dismissal of said workman by the Management on the following issue :—

"Whether the claim of Shri Mukti Hazarika, Senior Store Keeper that he was illegally dismissed from service by the management of Indian Oil Corporation Limited, Digboi is legal and justified? If so, to what relief is the workman entitled?"

On receipt of reference, this tribunal has registered this case and issued notice to both the parties calling upon them to file their written statements/Addl. written statement and to exchange their documents, in response to which both the parties have appeared and filed written statement/Addl. written statement in support of their respective claims. Apart from that, both the parties have adduced oral evidence and exhibited some document in support of their case.

After recording evidence of both the parties, I have heard the arguments advanced by the learned advocates for the both the parties and perused the entire materials on record.

From perusal of record I find that workman Shri Mukti Hazarika, employee of Indian Oil Corporation Ltd. (Assam Oil Div.) Digboi has raised this Industrial Dispute against the order of his dismissal passed by the management with effect from 16-6-1995 afternoon for alleged loss of 193 MT. of Soda Ash in his capacity as store keeper in Drum Plant godown. The workman's case is that he was appointed by the management in the year 1979 as Junior Clerk and since then he has been serving under the management at Digboi Refinery with his utmost sincerity and honesty till his dismissal. It is also contended by him that his service was never spotted by any stigma and having satisfied with his performance, the management, in the year 1991, posted him as store keeper in Drum Plant and Chemical Godown under Material Department where plain sheets and chemicals are stored. The Company had 7 nos. of godowns under Drum Plant and Chemical Godown and Soda Ash is one of different kinds of Chemicals stored in said godown. On 31-1-1994, he was transferred by the management to the main godown of the Company and in his place one Shri I. Hussain was posted whom he formally handed over the charge of the Godown and took charge in his new posting. After 4 months from the date taking over charge i.e. on 6-6-1994, he received a letter from Material Manager informing him that 193 MT of Soda Ash was found short during his tenure which was detected on physical verification of stock on 2-6-1994. Soda Ash allegedly found short was worth of rupees 18,99,661 and he was asked to explain the reason of such shortage on or before 11-6-1994. The workman has informed the management that he has handed over charge on January, 1994 to his successor I. Hussain, and he was not responsible for such shortage as because since the date of handing over charge till verification of stock in his absence considerable amount of Soda Ash was issued from the Godown. But the management having not been satisfied with the explanation given by the workman conducted a preliminary enquiry on 26-6-94 by convening a committee with Mr. N. Saikia as convenor. The committee has held an enquiry and submitted report without giving him an opportunity of appearing before the committee or at the time of stock checking. But he was called to submit a report as to shortage. The workman has submitted report stating that he was handed over charge on January, 1994 and he was not responsible for any shortage of Soda Ash. The management, thereafter, framed the following charge against the workman on the basis of preliminary enquiry made by the committee and appointed P. C. Sonowal, Deputy Manager, Administrative Branch to hold a domestic enquiry against the workman. The charge framed against the workman are as follows :

- (i) While acknowledging receipts of Soda Ash, you did not record the registration numbers of the trucks on twenty-eight numbers of challans as detailed in Annexure-II of this charge-sheet.

- (ii) While acknowledging receipts of Soda Ash, you did not record the date of receipt on twenty-eight numbers of challans, as detailed in Annexure-III of this charge-sheet.

- (iii) Although you have acknowledged receipts of Soda Ash against fifteen numbers of challans, as detailed in Annexure-IV of this charge-sheet, there is no record of entry/exit of trucks carrying these materials to/from the refinery.

- (iv) On 17-07-93, although you recorded receipt of 8.25 MT of Soda Ash vide Truck numbered MN 03A 3414 against challan No. 5 dated 17-07-93, there is no record of entry/exit of this truck carrying Soda Ash to/from the refinery.

The enquiry officer, accordingly, issued notice upon the workman to defend his case if necessary by taking Asstt. co-employee. As suggested by the workman, one I. B. Chetry was allowed to represent his case. The enquiry officer after recording evidence and hearing the workman has submitted report exhibit. 6 holding the delinquent workman guilty of fraudulent act of misconduct leading to loss of company property i.e. Soda Ash worth of Rs. 18,99,661.00 which is act of misconduct within the meaning of xiv(2) and (iii) of the Company Certified Standing Orders, but other charge framed against him such as "any act of subversive discipline", "habitual negligence" and "neglect of work" were held to be not proved. After receiving the report from the enquiry officer the management after giving the workman an opportunity of filing representation and considering the same had dismissed the workman from the service with effect from the date already stated above against which the workman had raised the present Industrial Dispute.

The management, on the otherhand, has contended by submitting written statement inter alia, that it is an individual dispute of the workman and hence reference must be made by the appropriate Government under section 10 read with section 2(A) of Industrial Dispute Act. The reference only made under section 10 of the I.D. Act is not maintainable. They have further contended that the reference was made after 21 months from the date of dismissal of the workman and because of such inordinate delay in making reference it should be rejected. It is contended that the workman who was appointed in the year 1979 was posted as store keeper in Drum Plant and Chemical Godown of the Refinery under material Department and thereafter transferred to main Godown in the year 1994. But after his transfer a physical verification of stock of Soda Ash was made and reconciliation of document found short of 193 MT of Soda Ash value of Rs 18,99,661.00 for which the workman was charged sheeted and domestic enquiry was held. The domestic enquiry was conducted by P. C. Sonowal after complying with necessary procedure and also principle of natural justice and submitted report finding the delinquent employee guilty for loss of aforesaid amount of Soda Ash and accordingly he was dismissed from the service by the management. It is also contended that during the enquiry the workman could not give any satisfactory explanation and hence enquiry officer has rightly held him guilty and he was rightly dismissed from the service by the management and accordingly they pray for answering the reference in their favour.

The workman has adduced his own evidence and management has also adduced the evidence of P. C. Sonowal, enquiry officer who has exhibited the xerox copy of enquiry proceeding conducted by him.

After completion of evidence, I have heard the lengthy argument advanced by the learned advocate for both the parties in support of their respective case. Mr. A. Roy, learned senior counsel, appearing on behalf of the workman has contended that the enquiry held by the enquiry officer was not in accordance with the procedure prescribed in that behalf nor in compliance of principle of natural justice which are the fundamental principle to be adhered to by the enquiry officer in conducting domestic enquiry. It is also contended that the management has not appointed any representative to

represented the case and hence the enquiry officer has played the role of prosecutor by examining the management witness. It is further submitted that Chief Materials Officer is not the employer of the workman and hence he can not be disciplinary authority nor he can appoint any enquiry officer to conduct the enquiry. Moreover, P. C. Sonowal being officer of the same department should not be appointed as enquiry officer because there is every possibility of taking side of management in conducting the enquiry. Moreover, in conducting the domestic enquiry, the enquiry officer neglected the sign of business by not giving proper and reasonable time to the workman for appearance of the union representative by fixing a very short date. It is further contended that in the domestic enquiry as many as 69 zerox-copy of challans were exhibited against the workman as documentary evidence without giving reasonable explanation as to why originally were not produced. Moreover, photocopies of the challan were not proved in original and hence these documents were not admissible in evidence and any finding based on such document is not in accordance with law and equity and dismissal order recorded against the workman is not tenable in law and is likely to be set aside. It is further contended that the finding of the enquiry officer holding that the delinquent workman is guilty on the charges of leading to loss of company property worth of Rs. 18,99,661.00 is not tenable in law because of his own findings that the workman is not guilty for act of subversive of discipline and habitual negligence and neglect of duty, because all the charges are intrinsically allied to each other. It is also submitted that work of the workman as store keeper is interlinked with inspecting section, laboratory section etc. under such circumstances, it is not possible on the part of the workman alone to make any shortage of any material received by him in capacity of the store keeper and hence, finding of the enquiry officer holding the workman solely responsible for loss of Soda Ash without holding any of employees linked with the work of the godown responsible for it is not tenable in law. Considering these submission the learned advocate for the workman has submitted for setting aside the order of dismissal and finding of enquiry officer and order reinstatement of the workman with all arrear benefit. The learned advocate for the workman has referred to I.L.L. (1970) Page 210, (1996) 3 SCC page 364 (1984) A SCC page 43 in support of his case.

Shri S. N. Sarma, learned, senior counsel appearing on behalf of the management has submitted that the enquiry held by the enquiry officer is in full compliance of principle of natural justice and procedure and finding recorded by him is also elaborate and speaking and hence it should not be set aside. It is also contended that the workman could not give satisfactory explanation as to shortage of Soda Ash during his tenure and hence he was rightly held guilty by the enquiry officer for loss of company property. Regarding non furnishing of original copy of challan exhibited in course of domestic enquiry, it is submitted the workman has not raised any objection against the exhibit of photo copy of challan and point of admissibility of zerox copy of challan can not be raised at this stage. It is also contended that there is no provision for appointing presenting officer in the company's case and for non appointment of presenting officer and for examination of the witness by the enquiry officer himself, the proceeding is not vitiated and findings can not be set aside. In support of his contention he has referred to a few decisions of the Apex Court AIR (1975) page 2125 (1958) SC page 236, AIR (1956) PATNA page 384, AIR (1957) page 882.

After hearing both the parties I have gone through the material on record including photocopy of enquiry proceeding and also oral evidence adduced by the parties and other document filed there in. In view of these, let us decide the issue referred to in the light of the submission made by the learned counsel of the parties and also materials on record as referred to above.

The issue to be decided in this reference has already been mentioned above. To decide the issue, it is necessary to see whether domestic enquiry held by the enquiry officer was in accordance with procedure prescribed in that behalf or not and whether principle of natural justice was complied with or not. Secondly, whether the finding arrived at by the

enquiry officer is based on proper appreciation of evidence on record or not. Thirdly, whether in recording finding, the enquiry officer has considered the entire facts and circumstances of the case or not.

As already mentioned above, Shri A. Roy, learned Senior counsel has assailed the domestic enquiry from difference points of view. He has submitted that the enquiry officer is not the employer of the workman and hence he is not competent to hold the enquiry. But the learned counsel can not establish who is the employer of the delinquent workman. According to management, the Chief Material Officer is the employer of the workman and he has instituted the enquiry properly. Be it what is may as the defence can not establish who is the employer of the delinquent workman other than present disciplinary authority i.e. Chief Materials Officer, this submission of the learned defence counsel can not be accepted. It is true that the enquiry officer had not appointed any presenting officer to represent the case on behalf of management and he himself has examined the management witness. But in the Company Standing Order which I have perused there is no provision for appointment of presenting officer. Regarding the validity of the deposition of the management witness recorded by the enquiry officer without presenting officer, the learned counsel for the management has drawn my attention to AIR (1975) SC page 2125 wherein it is held that the enquiry officer in a domestic enquiry can put questions to the witnesses for clarification wherever necessary and if he allows the witnesses to be cross-examined thereafter, the enquiry proceeding can not be impeached as unfair. "The ratio to the decision is that enquiry officer can put question to the witness for clarification. But, it is not held that the enquiry officer can examine the witness playing the role of the prosecutor. As apparently no presenting officer was appointed to examine the witness from the side of the management and enquiry officer himself has played the roll of the prosecutor by examining the witness, the enquiry can not be held to be fair and in accordance with law. Moreover, the enquiry officer, P. C. Sonowal being an officer of the same company can not be considered to be an independence person, because he will generally try to protect the interest of the company. Instead of appointing officer of the same company of the same station as enquiry officer where delinquent employees is working management should have appointed an officer of the difference company having experience in this field as enquiry officer to make the enquiry impartial and independent. It is found from the materials on record that enquiry officer fixed a very short date for completion of the enquiry. The fixing of short date for the purpose of holding enquiry due to absence of union representative I. B. Chetry, it can not be held that delinquent employee was not given proper and reasonable opportunity of being heard. Although, learned counsel of the workman has submitted that the workman was not represented by union representative, but from perusal of record, I find that the union representative I. B. Chetry has cross-examined the management witness. In view of this it can not be held that workman was not given opportunity of being represented by the union representative. The learned defence counsel was submitted that all the 69 documents i.e. challan stated to have been signed by the delinquent workman during his tenure as store keeper have been exhibited without original. There is no explanation from the side of the management as to why the original copy of the challan was not produced. But rebutting the submission the learned advocate for the management has submitted that at the time of exhibit of these documents, the delinquent workman have not raised any objection as to its exhibit. No objection is raised at that time, subsequently this objection cannot be raised before the tribunal for the first time. It is further submitted that in the case of industrial dispute, strict applicability of the principle of evidence act should not be insisted upon. He has relied his submission on reported case law AIR (1957) SC page 882 where it is held that the evidence Act has no application to enquiry conducted by tribunals even though they may be judicial in character. The law requires that such tribunals should observe rules of natural justice in conduct of the enquiry and if they do so, their decision is not liable to be impeached on the ground that the procedure followed was not in accordance with that, which is required by the Evidence Act."

without intending it to be exhaustive it may be observed that rules of natural justice requires that a party should have the opportunity of adducing all relevant evidence on which he relies that the evidence of the opponent should be taken in his presence, and that he should be given the opportunity of cross-examining the witnesses examined by that party, and that no materials should be relied on against him without being given an opportunity of explaining them. If these rules are satisfied, the enquiry is not open to attack on the ground that the procedure laid down in the Evidence Act for taking evidence was not strictly followed. "From the perusal of the record, I find that the delinquent workman's representative has not raised any objection against exhibit of the zerox copy of the challan without original. As it is enquiry zerox copy of the challan exhibit without objection admissible in law as laid down by the Apex Court in aforesaid decision. In view of this, I am of opinion that submission as to non exhibit of the original copy of the challan is not tenable in law. But it is to be noted that before the tribunal also the management has not produced the enquiry proceeding in original including document for the purpose of the perusal of the tribunal. All the zerox copies of the challan were produced and were exhibited. From the perusal of the zerox copy of the challan furnished along with the zerox copy of the proceeding I find that the enquiry officer has not made any 'mark' in challan as prove in original. Although, there is no objection from the side of the workman as to exhibit of zerox copy but in finding of enquiry officer recorded in para 7(ii) at page 2 of enquiry report, the learned enquiry officer has stated that ext. I to 59 seems to be acknowledged receipt by one person whose signature was identical by M. Hazarika. Those finding of the enquiry officer has not established conclusively that the signature on the exhibits are that of M. Hazarika. Moreover, there is no finding of the enquiry officer that he has compared the signature on the challan with that of real signature of the delinquent workman M. Hazarika. The word 'seems' used by the enquiry officer in aforesaid para left a doubt as to whether signatures on the challan are that of delinquent workman or not. Moreover, as already mentioned above, there is no remark by the enquiry officer on the zerox copy of the challan that those were proved in original, although no original document was placed on the case record. Although the strict principle of law evidence is not applicable in the reference under Industrial Dispute Act, but the finding of the enquiry officer as to admissibility of the document stated to have been written by the delinquent workman should be to the satisfaction of the tribunal to hold conclusively that it was delinquent workman who wrote the document.

The management has also assailed the reference as not maintainable for being referred only under section 10 of the I.D. Act without mentioning section 2(A) of the I.D. Act. This is because the definition of industrial dispute is given under section 2(K) of the I.D. Act which means a dispute between the employer and employee arising out of employment, non-employment and terms of employment. But separate definition of industrial dispute raised by a dismissed employee is given under section 2(A) of the I.D. Act which means a dispute raised by an employee against the order of the dismissal is also industrial dispute. But whether it may be industrial dispute under section 2(K) or 2(A) of I.D. Act, the fact remains that any of such dispute has to be referred by the appropriate Government under section 10 of the I.D. Act. This being the position of law, the non-mentioning of Section 2(A) of the I.D. Act alongwith the Section 10, reference can not be said to be incompetent and not tenable in law. Accordingly, this contention of management is far from accordance. So far, as 21 months delay in making the reference by the appropriate Government from the order of dismissal of the delinquent employee is concerned I am of opinion that no time limit is fixed in the I.D. Act for the purpose of making any reference to the tribunal. As there is no statutory bar in the I.D. Act for the purpose of making reference after a pacific period of time this contention of the management is also far from acceptance.

Now let us see whether the finding recorded by the enquiry officer is in proper appreciation of evidence on record or not or whether he has taken into consideration entire fact and circumstances of the case or where the explanation given by

the delinquent workman was taken into account at the time recording finding. From the perusal of the zerox copy of the finding recorded by the learned enquiry officer, which is exhibit 6 in this case, I find that the learned enquiry officer has reflected statement of the management witness only stated in the examination in chief. He has not reflected what the witness has stated in cross-examination. Moreover, the delinquent workman has given certain explanation in response to the question put to him by the learned enquiry officer on 30-1-95. In reply, he has given some explanation in support of his defence which the enquiry officer has not reflected nor such explanation was considered at the time of recording findings. In response to the question put to the delinquent workman as to whether he has anything to say against the charges in his defence, the delinquent workman replied as follows: "(2) Management witness No. 1 told before the enquiry that I only, used to receive the materials in Drum Plant godown which is a complete false. Actually, the receiving and inspection Section receives all materials for stores.

(3) It is the duty of the officer in charge of the receiving and inspection Section to check and verify, if any truck No. etc. are not recorded on the challans received by me and if such omission are there, those challans should not have been passed for payment.

(4) All the challans mentioned in the Annexures I, II, III and IV of the charge sheet dated 19-08-94 are not received by me. Some of those challans were received by Shri N. L. Das, Materials Manager, Shri Faruk Islam, Sr. Clerk.

(5) Since the key of the godown outside the Refinery, near canteen No. 1, was with Shri R. S. Nath for 4 days, and the materials (Soda Ash) were transferred to Refinery godown without my knowledge, so, I am not responsible to shortages.

(6) Materials Department knows that the Drum Plant godown and the outside godown were under me. But, no body enquired me about the key of the outside godown and broke open the door of the outside godown without my knowledge.

Therefore, it is my submission that I am not guilty of the charges level against me.

I also submit that I was on casual leave on 31-12-93. I was called from my house sending the supplier and advised by CMTM to unload the Soda Ash although I was on casual leave. He also told me that one day C/L will be adjusted later on."

From perusal of this explanation I find that these bear some materials in support of the defence of the delinquent workman. In the evidence of the delinquent workman recorded by the tribunal I find that he has categorically narrated the way of functioning in the drum plant godown. Relevant portion of evidences to that effect are as follows: "The supplier are to obtain gate pass and brought the challan with goods. They handed over the challan to me which I sent to K. C. Sonowal to check up the goods with challan. He then forwarded the challan to S. K. Chakraborty. When they made the challan O.K. with goods. I open the godown to store the goods. Then K. C. Sonowal wrote a report to Laboratory Department to make the chemical check up. Then laboratory department posted the report and forwarded to S. K. Chakraborty. Then K. C. Sonowal prepared good received note copy of which was sent to me and then I made entry in the relevant registered. After receipt of all, I made receipt of goods in store registered. My duty as store keeper started when I made entry of goods in real." In the cross-examination by the management, these pieces of evidence can not be dislodged. On the other hand from the perusal of the evidence of M.W.1, Shri P. C. Sonowal, learned enquiry officer I find that the aforesaid contention of the delinquent workman as to his nature of functioning as store keeper has been supported. The relevant portion of the evidence of these M.W.1 is as follows: "Until goods are duly entered in store room, Store keeper is not responsible. It is not compulsory that there should be written duty for store keeper. There is an inspection clerk and sectional head in the godown section". This piece of evidence of the enquiry officer shows that apart from delinquent workman, there are other employees responsible for store and godown. Unfortunately none

of the person working in the godown in inspection section was examined by the enquiry officer. But the evidence on report, as already mentioned above it is apparently clear that the delinquent workman is not only employee working in godown, but other employees working in the godown and also employee of the inspection section are also responsible for the maintenance company property in the godown. The delinquent workman's duty is interlinked with the duty of employee of the inspection and laboratory section. The supplier handed over challan to the workman which he again handed over to K. C. Sonowal to check up the goods to the challan. After checking up, he handed over it to S. C. Chakraborty who made the challan O.K. When challan is made O.K. by said Chakraborty, the delinquent workman opens the godown and thereafter arrangement is made by K. C. Sonowal for laboratory test of the chemical goods. These aspect of the case has shown that the responsibility of storing of Soda Ash lies not only on the delinquent workman, but also upon employee of the inspection section as mentioned above and also other workman working in the godown. These being the position, if any shortage of Soda Ash occurs in the godown, the store keeper can not be held solely responsible without fixing any sort of responsible and other employees working there. In the finding of the enquiry officer it is stated that 193 MT Soda Ash was found shortage. There is no evidence as to loss or theft of Soda Ash. Soda Ash is such type of chemical which has hardly any use other place than in the refinery. In view of this, there is no finding of the enquiry officer whether Soda Ash was sold elsewhere by the delinquent workman, nor there is any pacific finding of the learned enquiry officer that the delinquent workman has shown any paper receipt of Soda Ash without physical receipt except conclusion drawn by him in para 5 of his report that Soda Ash weighing 228.750 MT acknowledged receipt by the delinquent workman was found to be fraud which led to actual shortage of the materials. In this respect, where stock of aforesaid quantity of Soda Ash was physical received by the delinquent workman or not has to be conclusively ascertained by the learned enquiry officer by examining most from the supplier who supplied the material, if 'by fraud' as stated above, the learned enquiry officer wants to mean that the aforesaid quantity of Soda Ash was not physical received. Without examination the main from the supplier the learned enquiry officer should not come into conclusion that actual quantity of Soda Ash was not received only on the basis of document, nature and fate of which have already been discussed herein above. These being the position I find it difficult to believe how learned enquiry officer came into conclusion that delinquent workman was solely responsible for shortage of 193 MT Soda Ash.

In the finding, the learned enquiry officer has held that other charges under clause XIV(2), (X), (XIII), (XV) i.e. any act subversive of discipline, or habitual negligence and neglect of work are not proved. But this charge is instigatively allied with all the charges brought against the workman. If other charges are not proved, how learned enquiry officer has held that charge for alleged shortage of 193 MT Soda Ash, value of which Rs. 18,99,661.00, during the period from 28-8-93 to 31-1-94 in the drum plant, was proved. It the learned enquiry officer came into conclusion that the company has lost aforesaid quantity of materials because of delinquent workman, then he has to be held responsible for habitual negligence or neglect of work. This is because if any loss of company's property, according to enquiry officer occurs these may be due to negligence act of person concern. So, if the delinquent workman is not found guilty for neglect of duty he can not be held solely responsible for loss of aforesaid quantity of company's property under the fact and circumstances of the case which has already been discussed herein above.

So far as the final order passed by the learned disciplinary authority dismissing the delinquent workman from the service on the basis of the finding of the learned enquiry officer is concerned, I find that he has not taken into consideration the past service carrier of the delinquent workman as per clause 5 of the rule (XIV) of the Company Certified Standing Order. As per this clause, at the time of inflicting punishment, the Disciplinary Authority should take into action the gravity of the misconduct the previous record, if any of the workman, and any other aggravating circumstances that may

exist. The learned disciplinary authority has simply mentioned that the charge proved is grave in nature and warrants dismissal. It is also mentioned that in awarding dismissal as punishment, he was also considered his past service record. But whether past record is good or bad has no indication at all in the finding. But as appeared from evidence on record that there is no stigma on the service carrier of the delinquent workman till the date of last transfer to the main godown in the month of January. It is true that loss of company property to the extent of Rs. 19 Lakhs is a charge of grave nature, if it is proved conclusively that it is the workman and workman alone who is responsible for loss. But what I have already discussed above in that the workman can not be held solely responsible for the loss of company property of aforesaid tune on the basis of the finding recorded by learned enquiry officer by holding enquiry in the manner which I have already discussed herein above.

For the forgoing reason, I am of opinion that the finding recorded by the learned enquiry officer is not tenable in law and the order of dismissal passed by the learned disciplinary authority on the basis of such finding is also not tenable in law and is liable to be set aside which I accordingly do.

In the result, I in exercise of power laid down under Section 11-A of I.D. Act do hereby set aside the both the findings of learned enquiry officer and learned Disciplinary Authority dismissing the delinquent workman from the service holding that the management is not justified in dismissing the delinquent workman from his service. The workman is ordered to be reinstated by the management in his service with immediate effect. But considering the entire facts and circumstances of the case I direct that the delinquent workman is not entitled to be paid the pay and other allowances for the period since the date of dismissal till reinstated.

I give this award on this the 6th September, 1999 under my hand and seal. Prepare an award accordingly.

K. SARMA, Presiding Officer.

नई दिल्ली, 13 अक्टूबर, 1999

का.आ. 3231.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-10-99 को प्राप्त हुआ था।

[सं. एल-22012/III/93-आई आर (सी-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 13th October, 1999

S.O. 3231.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.E.C.L. and their workman, which was received by the Central Government on 12-10-99.

[No. L-22012/III/93-IR(C-II)]

N. P. KESAVAN, Desk Officer



## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR

## COURT, JABALPUR

SHRI D. N. DIXIT, Presiding Officer  
CASE NO. CGIT/LC/R/141/93Shri Raju Pathak,  
C/o S.D.O. EID,  
Sub-Division No. 6, Barginagar,  
Jabalpur, ... Applicant

Versus

The General Manager,  
South Eastern Coalfields Ltd.,  
Gevra Group,  
PO Gevra Project,  
Distt. Bilaspur ... Non-applicant

## AWARD

Delivered on this 15th day of September, 1999

1. The Government of India, Ministry of Labour vide order No. L-22012/III/93-IR-C.II dated 12-7-93 has referred the following dispute for adjudication by this tribunal—

“Whether the action of the management of Gevra Project of SECL in dismissing Shri Raju Pathak from service w.e.f. 1-3-90 is legal and justified? If not, what relief the concerned workman is entitled to?”

2. The case of the workman is that on 8-5-89, he was working as mechanic fitter Deepika Project, SECL. The neighbour of the workman Shri Ashok Kumar met with an accident at about 3 PM in Khusraddina Dampin and died. A crowd collected outside the office of Shri G.M.S. Jowhar Dy. GM along with a dead body. A chargesheet was given to the workman that he instigated the crowd and stopped the jeep of Shri G.M.S. Jowhar. It is further alleged that the workman misbehaved with Shri Jowhar. The workman denied this charge and a departmental enquiry was held. In this departmental enquiry, management examined witness and workman also examined witnesses. The enquiry officer found workman guilty and submitted his report. The workman was dismissed from service with effect from 1-3-90. The workman filed an appeal which was also dismissed. The workman states that copy of enquiry report was not given to him hence the order of termination is bad. The procedure adopted in the enquiry is illegal and against principles of natural justice. The workman pray that the order of termination be quashed and he be taken back in service with back wages.

3. The case of the management is that on 8-5-89, when Shri G.M.S. Jowhar, Dy. General Manager was returning from the sight of this accident, the workman stopped his jeep and instigated the workers to assault Shri Jowhar. Mud was thrown on Shri Jowhar. A chargesheet was given to workman and denied the charges. Departmental enquiry was held. The workman contested the charges in the enquiry and he was assisted by the co-worker. The management witnesses were cross examined by the workman. The work-

man examined 4 witnesses in defence. The enquiry officer found the workman guilty of the charges. The workman has been dismissed from service from 1-3-90. The procedure adopted by the Enquiry Officer is proper and valid. The punishment given to workman is in proportion to the misconduct committed by the workman. The workman deserves no sympathy. The management wants that this case be dismissed.

4. By order dated 2-4-98, this court has held that the procedure adopted in the DE proceedings are proper, legal and valid. The preliminary issues has been decided in favour of the management.

5. In the departmental enquiry, the management has examined 3 witnesses namely Shri G.M.S. Jowhar, Shri G. B. Rao and Shri Y. P. Kohli. All these three witnesses has stated that the workman stopped the jeep of Shri Jowhar and shouted “Ise Maaro Ise Maaro”. The workman compelled Shri Jowhar to come out of jeep. The workman threw pieces of earth on Shri Jowhar. He again shouted “Ab Ise Maaro Ab Ise Maaro”. Shri Jowhar came to his office and the workman disconnected the telephone line and electric line.

6. The defence witness Shri Chandra Sen states that the mob has taken the dead body to the office of Shri Jowhar. DW-3 and DW-4 stated that Shri Jowhar was surrounded by the mob. In this mob, the workmen was present.

7. From the statement of defence witness, it is clear that the workman brought the dead body of Shri Ashok Kumar from Hospital to the office and created provocative atmosphere and tried to create the mob hysteria against Shri Jowhar. No explanation has been given why the workman brought the dead body from hospital to the office of Shri Jowhar. It is established that the workman created confusion and tried to exploit the sentiments of the mob against Shri Jowhar. It is further established with the mob that surrounded the office of Shri Jowhar, disconnected the electric line and telephone line. The intention of the workman was to lynch Shri Jowhar.

8. From the evidence led by the management and defence in the DE, the charges against the workman are proved. The workman has humiliated the Sr. Officer and throw dirt in his face. The atmosphere created by the workman was illegal and uncalled for.

9. The main grievance of the workman is that copy of Enquiry Report has not been given and this amounts to violation of principles of natural justice. This point has been decided by the High Court of MP in MP No. 1249/91 Krishnakant Dubey versus NCL Singrauli dated 1-7-92. The Division bench of the MP High Court has held that the judgement of the Supreme Court in the case of Union of India versus Mohd. Ramzan Khan, AIR-1991(SC)471 is that this judgement will have prospective application. This should be effective from the date of judgement i.e. 20-11-90 and termination order passed earlier shall not be opened to challenge on this ground. In the present case, the impugned order of termination has been passed on 28-2-90 and is therefore not opened to challenge on this ground.

10. Looking to the misconduct of the workman, the punishment of dismissal from service is fully justified. If such an action is not taken, the discipline and industrial harmony in the coal industry will be destroyed. The punishment given to the workman is just and proper. It does not call for any interference.

11. The workman failed to prove that he had been deprived of his legal rights and given a harsh punishment. The workman has no case. The award is given in favour of the management. Parties to bear their own cost.

12. Copies of the award be sent to the Ministry of Labour, Government of India as per rules.

D. N. DIXIT, Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1999

का.आ. 3232 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस.ई.सी. एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-10-99 को प्राप्त हुआ था।

[सं. एल-22012/119/93-आई आर (सी-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 13th October, 1999

S.O. 3232.—In pursuance of Section 17 of the industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.E.C.L. and their workman, which was received by the Central Government on the 12-10-99.

[No. L-22012/119/93-IR(C-II)]

N. P. KESAVAN, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)

Presiding Officer SHRI D. N. DIXIT.

CASE NO. CGIT/LC (R) (156)/93

Shri Banke Singh,  
Represented through,  
Vice President,  
National Colliery Workers Federation,  
Chirmiri Area,  
P.O. Korea Colliery,  
Dist Sarguja (M.P.) ... Workman

Vs.

Deputy Chief,  
Mining Incharge,  
Korea Colliery of S.E.C.L.,  
P.O. Korea Colliery,  
Dist. Sarguja. ... Management

#### AWARD

Delivered on this 30th day of September 1999.

1. The Government of India, Ministry of Labour vide order No. L-22012/119/93-IR (C-II) dated 17-8-1993 has raised the following dispute for adjudication by this Tribunal :

"Whether the action of the Dy. Chief Mining Engineer, Koreas Colliery of Chirmiri Area of S.E.C. Ltd. in reverting Shri Banke Singh S/o J. K. Singh, from the post of C.C.M. Operator Category VI to C.C.M. Helper Category—IV vide memo dated 15-5-89 is legal and justified ? If not, to what relief the workman is entitled to ?"

2. The case of the workman is that he was issued a chargesheet on 13-1-1988 alleging that due to his negligence, an employee Shri Ram Swaroop was seriously injured and died. The workman denied the charge. A Departmental Enquiry was held and in this enquiry the workman participated. The Enquiry Officer found the workman guilty and submitted his report. The Disciplinary Authority punished the workman and he was reverted to helper Cat. IV with initial basic pay of Cat. IV. This order has been passed on 15-5-1989. The contention of the workman is that the enquiry conducted was against the rule and procedure followed was contrary to the principles of natural justice. The workman prays that the order of punishment dated 15-5-1989 be quashed and he be placed back in Cat. VI and paid wages and allowances of this scale.

3. The contention of the management is that due to negligence and foolishness on 7-11-1988 at about 12.30 p.m. the workman sent Ram Swaroop to remove the obstruction in the Crusher Roll. While Shri Ram Swaroop was inside the belt the workman started the crusher and Ram Swaroop was seriously injured and same day he died. The accident is because of the negligence of the workman. A chargesheet was issued to the workman which he denied. A DE was held. The workman participated in this enquiry. Enquiry Officer found workman guilty and submitted the report. The Disciplinary Authority reverted the workman from Cat. VI to Cat. IV. The punishment given to workman is very lenient. The management seeks Award in its favour.

4. This Court by order dated 19-2-1999 has decided that the procedure adopted in the DE proceeding is valid and legal.

5. In the DE management examined four witnesses who proved that on 7-11-1988 at about 12-30 p.m. there was obstruction in the Crusher Roll. The workman sent Ram Swaroop to remove the obstruction. The workman never bothered to see whether Shri Ram Swaroop has come out of the machine or not and he started the feeder breaker. As a result Ram Swaroop was seriously injured and same day he died. Management had proved that the workman been careful and taken the precaution Ram Swaroop would not have died. Due to gross negligence of workman Shri Ram Swaroop died.

6. The misconduct proved by the management is of serious nature. Normally the workman would



have been dismissed from service. The management has taken a very lenient view and only reverted the workman from Cat. VI to Cat. IV. The punishment given to workmen is not too harsh and excessive.

7. The management has proved that the workman has committed the misconduct. The punishment given to the workman is lenient. The workman cannot be granted any relief. The Award is given in favour of the Management. Parties to bear their own cost.

8. Copies of the Award be sent to Ministry of Labour, Government of India as per rules.

D. N. DIXIT, Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1999

का.घा. 3233.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इन्डिय. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-10-99 को प्राप्त हुआ था।

[मं. एल-22012/172/97-आई आर (सी-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 13th October, 1999

S.O. 3233.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of W.C.L. and their workman, which was received by the Central Government on the 12-10-99.

[No. L-22012/172/97-IR(C-II)]

N. P. KESAVAN, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT, JABALPUR (M.P.)

Presiding Officer, SHRI D. N. DIXIT

CASE NO. CGIT/LC (R)/168/98

Chittooram, Ex-Loader,  
Satpura-I, Mine of WCL,

Pathakhara Area, Betul. . . . . Workman  
Vs.

General Manager,  
W.C.L. P.O. Pathakhara,  
Dist. Betul (M.P.)

Management

#### AWARD

Delivered on this 29th day of September, 1999.

1. The Government of India, Ministry of Labour vide Order No. L-22012/172/97 IR (C. II) dated

30-7-1998 has referred the following dispute for adjudication by this Tribunal :

"Whether the action of the management of W.C. Ltd., in terminating the services of Sh. Chitto Ram S/o. Babloo w.e.f. 21-9-1994 is justified ? If not, to what relief is the workman entitled ?"

2. On 23-9-1999 both parties filed a joint petition stating that they have settled their dispute and workman has been given employment. In lieu of this settlement No Dispute Award is given. Parties to bear their own costs.

3. Copies of the Award be sent to Ministry of Labour, Government of India as per rules.

D. N. DIXIT, Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1999

का.घा. 3234.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ई. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-10-99 को प्राप्त हुआ था।

[मं. एल-22162/152/90-आई आर (सी-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 13th October, 1999

S.O. 3234.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of E.C.L. and their workman, which was received by the Central Government on 12-10-99.

[No. L-22162/152/90-IR(C-II)]

N. P. KESAVAN, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT, JABALPUR

Presiding Officer : Shri D. N. Dixit.  
CASE NO. CGIT/LC/R/5/92

Shri Gend Ram . . . . . Applicant

Versus

Management of South Eastern  
Coalfields Ltd. . . . . Non-applicant.

#### AWARD

Delivered on this 14th day of September-99

1. The Government of India, Ministry of Labour vide order No. L-22162/152/90-IR. C-II dated 8-1-92

has referred the following dispute for adjudication by this tribunal—

“Whether on 1-10-86, employer-employee relationship existed between Shri Gendram who was employed by a contractor Shri Shiv Dayali, and the management of Balgi Project of SECL? If so, whether the action of the management in terminating the services of Shri Gend Ram was justified? If not, what relief the concerned workmen is entitled to?”

2. The case of the workman Shri Gendram is that he was appointed as a labour in incline No. 2 by the colliery manager from 1-10-86. Same day the workman fell down on duty and broke his bone in left feet near the knee. The colliery Manager sent the workman for treatment at colliery Hospital Banki Sorakachar with a chit. This workman was under treatment from 1-10-86 to 30-11-88. The workman claims benefit as provided in National Coal Wage Agreement Sec-10-3-1. The workman filed case in this labour court and the court directed the management to pay damages to the workman. The management has deposited damages of Rs. 11,385 Labour Court and which has been paid too workman by the court. The workman filed another case against the management for payment of wages in the labour court and in this case the management has deposited Rs. 22,713 as wages in the court. This amount has been paid by the court to the workman. Thus the workman is an employee of the management and he should be observed in service from 1-12-88 and be paid wages from this date.

3. The case of the management is that the workman was never employed in the Balgi Project of the SECL. There was no employer employee relationship between the workman and the management. The workman was a labour employed by the contractor who was executing some construction work in incline No. 1 & 2 of the Balgi Project. The workman sustained some injury on 1-10-86 and he was sent to management hospital Banki Mogra purely on humanitarian ground. The NCWA-III and IV, there are compensation for employees hurt on duty. The workman was not an employee hence NCWA is not applicable. In the State Labour Court, it has been made clear in both the case that the workman was a labour employed by the contractor. The amount paid by the management in the 2 cases before the State Labour Court has been recovered from the bills of the contractor, I on the request of the contractor. No person can be given appointment in the manner claimed by the workman. The State Labour Court has not held that the workman was an employee of the management in both the cases. The humanitarian Act of the management to send the workman for treatment in the Banki Mogra Hospital is not a that he was an employee of the management. This act was purely humanitarian. The management cannot be saddled with payment of monetary dues to workman and to provide him with job. The management seeks dismissal of this case.

4. The Balgi Project of SECL is a unit of Coal India, a Government of India company for the purpose of extraction of coal. It has a recruitment policy. The local employment exchange sponsors the name of

eligible candidates which is scrutinised by the Election Committee by interview. List of successful candidates is prepared by the committee and they are issued appointment letters. These candidates are medically examined and sent for training and after training they are observed. The above procedure has not been followed in the case of the workman. If at all he was given employment, all this procedure has got to be followed. The colliery Manager is not competent to employ a labour as alleged by the workman. Then colliery Manager Shri V. P. Kurmi has categorically stated that he did not employ the workman.

5. Under the Mines rules, Regulation and Act, the following registers are mandatory in respect of Labour employed by the management—

- (a) Attendance Register in Form “C” and “D” and “E” (forms under Rule 48(3) and 78 of Mines Rule 1955).
- (b) Form B under rule 48(3), 51, 77, 77-a(2) of Mines Rules.
- (c) Form “G” under Rule 53 of Mines Rules (Register of leave account).
- (d) Form “I”, Rule 59 of Mines rules (Register of overtime).
- (e) Service Record etc.

6. In addition to the above statutory record in respect of employees, the management provides free fuel free medical aid and an Identity card and coal cards also to employees. In absence of these documents no presumption can be drawn that workman is an employee of the management. In the present case, the name of the workman does not figure in Form-B, C, D, E and G-I, register nor any Identity card has been issued to him and also he does not have medical card and coal card. Thus the absence of these cards and information in various statutory records no presumption can be drawn in favour of the workman. These are the best evidence to decline the personal employee of the management. The workman does not find a place in the statutory record maintained by the management and he is also not in possession of Identity Card, medical card or coal card.

7. The workman was employed by a contractor namely Shri Shiv Dayal on 1-10-86. Same day the workman suffered an injury. In case of a management employee, entry in register Form-I is mandatory in Mines Rules. No such entry is available in respect of workman. The workman is banking on a slip issued by Shri V. P. Kurmi Colliery Manager which is Exhibit M-V. This slip alone is the strength of the workman to prove that he is an employee of the management. Shri V. P. Kurmi has stated in court that he had issued slip Fx M-V purely on humanitarian ground. Shri Kurmi has been cross-examined by the workman in court. The cross examination of Shri Kurmi does not reveal in circumstances favourable to the workman. As stated earlier had the workman been the employee of the management? His injuries should have been recorded in register Form-J. The absence of this damages the case of the workman.

8. The workman has stated in this court that he has not received appointment order, he did not face the selection committee, the employment exchange did not sponsor him. Thus the workman was not employed by the management. The workman has not filed any paper which should conclusively prove that he was employed by the management.

9. The money paid to the workman in the 2 cases filed by the workman against the management about wages of workman was realised from the bills of the contractor. The contractor has given in writing that this amount be paid to workman and deducted from his bill. The workman is trying to twist the orders of the State Labour court and establish that he was an employee of the management. The Labour court has not held that workman is an employee of the management. This fact also will not help the workman. Exhibit M-4 is the judgement given by court for workman compensation, Bilaspur. It is mentioned in para-4 of this order that the workman is not an employee of the management and the amount of compensation, the management should recover from the contract.

10. The management had paid compensation to workman as he was engaged by the contractor. This was in accordance with Sec-21 of the contract Labour (Regulation and Abolition Act) 1970. This cannot be a basis to beat workman, an employee of the management. The workman has made out a case on the basis of a chit issued by the Manager to the Hospital when he was hurt. This is the sole document in the possession of the workman. As stated above, this chit was issued to workman purely on humanitarian ground. The workman has no case and his claim is not proved. The management has proved that the workman was not an employee of the management.

11. The award is given in favour of the management. Parties to bear their own cost.

12. Copies of the award be sent to the Ministry of Labour, Government of India as per rules.

D. N. DIXIT, Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1999

का.आ. 3235:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एन. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-10-99 को प्राप्त हुआ था।

[सं. एल-21011/12/86-डी-III (बी)]  
एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 13th October, 1999

S.O. 3235.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as 3142 GI/99—24.

shown in the Annexure, in the industrial dispute between the employers in relation to the management of N.C.L. and their workman, which was received by the Central Government on 12-10-99.

[No. L-21011/12/86-D-III(B)]  
N. P. KESAVAN, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

Presiding Officer : Shri D. N. Dixit.  
Case No. CGIT/ICR/66/87

Employers in relation to

Management of Gorbi Colliery  
of NCL, P.O. Gorbi Colliery.

Distt. Sidhi (MP).

Applicant

Versus

Their workmen represented by  
The General Secretary,  
Singrauli.

Non-applicant

#### AWARD

Delivered on this 20th day of September, 1999

1. The Government of India, Ministry of Labour vide order No. L-21011/12/86-D-III(B) dated 7-5-87 has referred the following dispute for adjudication by this tribunal—

“Whether the dismissal of Shri Krishan Ram, Lallan Ram, Tej Narain Singh and Ram Pyare Ram Security guards of Gorbi Colliery w.e.f. 10-6-85 by this General Manager, Gorbi colliery Distt. Sidhi MP vide his letter dated 10th June 1985 is justified? If not, what relief the concerned workmen are entitled to?”

2. The admitted facts of the case are that 4 workmen namely Krishan Ram, Lallan Ram, Tej Narain Singh and Ram Pyare Ram were working as security guards in the Gorbi Project of the Northern Coalfields Ltd., Distt. Sidhi MP. A departmental enquiry was held against all 4 workmen. Two charges were levelled against each workmen and each workman pleaded not guilty to both charges. In the DE, all 4 workmen participated. The enquiry officer found all the 4 workmen guilty of the two charges and submitted his report. The Controlling Officer accepted the report of the Enquiry Officer and terminated the services of the workman from 10-6-85. It is also admitted that Shri P. K. Singh was Administrative Officer of Gorbi Colliery in May-85. He submitted a written report against all 4 workmen.

3. Workman Tej Narain Singh died on 21-1-92 when the present reference was pending in this court.

4. The case of the workman is that a charge sheet was given to them alleging that on 13-5-85 at about 9.15 AM, in this Gorbi Colliery, Shri B. K. Singh was going in a motorcycle towards the office. All the 4 workmen along with other people stopped Shri B. K. Singh and obstructed his movement towards this office. After 5 minutes, all the 4 workmen and their friends entered the office of Shri B. K. Singh without permission or authority and man-handled and assaulted him with blows and hurled abuses on Shri B. K. Singh. He was saved from this predicament by Shri D. V. Singh who was sitting in the adjoining room.

5. All the 4 workmen were charged for obstructing Shri B. K. Singh and assaulting him in his office. The workmen pleaded not guilty to the charge. A departmental enquiry was held and the workman participated. The Enquiry Officer found the workmen guilty and submitted his report. The Controlling Officer accepted the contention of the Enquiry Officer and terminated the services of the workmen from 10-6-86.

6. The contention of the workman is that the procedure adopted in the enquiry is not in accordance with the principles of natural justice. The management has failed to prove that Shri B. K. Singh was obstructed on the road and further these workmen have assaulted and committed physical violence with Shri B. K. Singh in his office. The conclusions of the Enquiry Officer and Controlling Officer are erroneous and contrary to evidence led in the enquiry. All the workmen pray that the order of termination dated 10-6-85 be quashed and they be deemed to be in service. The workmen also pray for grant of arrears and allowances.

7. The case of the management is that all 4 workmen firstly tried to check the movements of Shri B. K. Singh on road and when they failed in this effort, they entered the office room of Shri B. K. Singh and abused, given him blows and physically assaulted him. On the report of Shri Singh charge sheet was given to all 4 employees. They pleaded not guilty to the two charges. The DE was held in which all 4 workmen participated. The enquiry officer found the workman guilty of both the charges and submitted his report. The Disciplinary Authority agreed with the findings of the Enquiry report and terminated the services of the workman. The procedure adopted in the DE is proper, valid and legal. The Enquiry report suffers from no infirmity. The punishment imposed is proportionate to the misconduct committed by the workman. The workman has been rightly punished and do not deserve any sympathy or leniency. The management wants confirmation of their action and dismissal of the case of the workman.

8. This court vide order dated 14-7-88 has held that the DE is violated. The court permitted the management to prove the misconduct of all workman in this court.

9. The management has gone to the High Court of MP Jabalpur to set aside order of this court. The management remained absent and the petitioner was dismissed by the Honourable High Court of MP.

10. In this court, to prove the misconduct of the management examined three witnesses. They are :—

1. Shri B. K. Singh
2. Shri D. V. Singh
3. Smt. Kaushalya Devi.

All these 3 witnesses were cross examined in court by the Advocate for all 4 workman. Shri B. K. Singh has stated in his cross examination that prior to the reported incident, he did not have a quarrel with any workman. In para-11 of his cross examination, this witness has stated that all the 4 workman has hit him with first on chest and shoulders. This cause hurt to him. He has further stated that about 11 people has entered his office but only 8 workmen has used force against him. This witness has stated that Shri D. V. Singh who is neighbour came to his office on hearing noises and he challenged the workman. The witness was rescued by Shri D. V. Singh.

11. The manner in which this witness has given evidence in court is convincing. His version is supported by the evidence of Smt. Kaushalya Devi and Shri D. V. Singh. I believe this witness.

12. The management witness Shri D. V. Singh is an Asstt. Accounts Officer in the Gorbi Colliery and his room is adjacent to the room of Shri B. K. Singh. On 13-5-85, at about 9.20—9.25 AM, he heard noises coming from the room of Shri B. K. Singh and he rushed to his room. He saw that 4 workmen were hitting Shri B. K. Singh. The office people also gathered and he rescued Shri B. K. Singh to his room. This witness has been cross examined by the Advocate for workman. He has stated in cross examination that the volume of noise coming from the room of Shri B. K. Singh, Shri B. K. Singh was surrounded by 10-12 peoples. This witness shouted at the security guards and Shri B. K. Singh came to him. This witness escorted Shri B. K. Singh to his office.

13. From the statement of Shri D. V. Singh, it is clear that Shri B. K. Singh was surrounded by 10-12 peoples and some of these people were causing hurt to him. The scene created unusual noise which attracted this witness to the room of Shri B. K. Singh. The version given by this witness supports the contention of Shri B. K. Singh.

14. Smt. Kaushalya Devi was a peon in Gorbi Colliery on 13-5-85. According to her, on this date at about 9-10 AM, 10—12 security guards entered the office of Shri B. K. Singh. She heard from the room hue and cry and saw that some of the security guards were beating Shri B. K. Singh. She raised an alarm and the office people collected. In her cross examination, this witness has stated in para 3 that she had seen this incident, from the distance which was only 2-4 hands away. Thus this witness supports the contention of Shri B. K. Singh that at the time of incident, 10-12 persons has entered his room and some of these gave a beating to Shri B. K. Singh. This witness is an independent witness and is neither prejudiced with the workman nor friendly with the management. I believe her.

15. From the statement of Shri B. K. Singh, Shri D. V. Singh and Smt. Kaushalya Devi it is clear that these 4 workmen had firstly tried to stop Shri B. K. Singh on road and when they did not succeed in it, they entered the office room of Shri B. K. Singh and physically assaulted him and caused hurt to him. There was no provocation to the workman for this Act.

16. The workman had filed their affidavits. They have been cross examined on it. Workman Shri Krishna Ram has stated in para-30 of his statement that there was no enmity between him and Shri B. K. Singh before the incident and after the incident. This witness has stated that Shri B. K. Singh was demanded Rs. 200 to permit him to join the duty. In para-35 this witness has stated that he did not report against Shri B. K. Singh about demand of bribe.

17. This witness stated in para-5 that Shri B. K. Singh did not demand bribe on 12-5-85. As against this, he has stated in his affidavit from para-11 to 16 that Shri B. K. Singh demanded bribe on 12-5-85 and 13-5-85. Thus there is a difference of dates in the affidavit of this witness and cross examination of this witness. This witness is not reliable.

18. Workman Tej Narayan Singh has stated in his affidavit that he has gone to the office of Shri B. K. Singh after hearing noises from his office. These witness also has stated that there is no quarrel between him and Shri B. K. Singh.

19. Workman Shri Ram Pyare Ram has filed his affidavit and he has stated in para-12 that his relations with Shri B. K. Singh are cordial.

20. Workman Lallaram has filed his affidavit and he has been cross examined. He has stated in his affidavit that Shri B. K. Singh demanded Rs. 200 as bribe to take him on duty. He has given an application on 13-5-85 in which he has not mentioned that Shri Singh demanded a bribe of Rs. 200. Thus there is difference in the version given in the affidavit filed in the court and earlier report dated 13-5-85. It was for the workman to prove that Shri B. K. Singh assaulted them and misbehaved with them. Again it was for the workman to prove that Shri B. K. Singh demanded a bribe of Rs. 200 both these facts has not been proved by the workman. According to workman there were 11-12 people at the time of incident. No one witness has been produced by the workman.

21. In the court, the management has proved that on 13-5-85, at about 9.15 AM the workman tried to stop Shri B. K. Singh on the road when he was going to his office. It is further proved that all the 4 workmen assaulted Shri B. K. Singh in his office and caused him hurt. Thus the management has proved both the charges against all 4 workmen in the court.

22. All the 4 workmen were security guards. Shri B. K. Singh was their superior Officer. They tried to stop him on the road by force. All 4 workmen have hit the superior officer in his office room when the officer was working. Thus all 4 workmen has behaved in highly insubordinate manner and caused hurt to their officer. The only punishment for this conduct is termination. Thus the punishment given to work-

man is in proportion to the misconduct committed by them. The quantum of punishment is approved.

23. All the 4 workmen have no case. The management is justified in terminating their services from 10-6-85. The award is given in favour of the management. Parties to bear their own cost.

24. Copies of the award be sent to the Ministry of Labour, Government of India as per rules.

D. N. DIXIT, Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1999

का.प्र. 3236 :--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस. ई. सी. एल. के प्रबंधन के संबंध विरोधों और उनके कर्मचारों के बीच, प्रमुख में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रधिकरण, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-10-99 को प्राप्त हुआ था।

[सं. एल-22012/50/92-आई प्रार (सी-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 13th October, 1999

S.O. 3236.---In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.E.C.L. and their workman, which was received by the Central Government on 12-10-99.

[No. I-22012/50/92-IR(C-II)]  
N. P. KESAVAN, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT, JABALPUR (M. P.)

PRESENT :

Presiding Officer Shri D. N. Dixit,

Case No. CGIT/LC (R) (112)/92

Shri S. K. Shrivastava  
S/o Pratap Shrivastava,  
Gram : Manpur,  
P.O. Manpur,  
Distt. Shahdol (M. P.)

.. Workman

V/s

General Manager,  
Johilla Area of SECL  
P.O. Nowrazabad Colliery,  
Distt. Shahdol (M. P.)

... Management

#### AWARD

Delivered on this 29th day of September, 1999

1. The Government of India, Ministry of Labour  
vide order No. I-22012/50/92-IR (C-II) dated

18-6-92 has referred the following dispute for adjudication by this Tribunal :

"Whether the action of the Sub Area Manager, Umaria Sub Area of the S. E. C. Ltd., P.O. Umaria Colliery, Dist. Shahdol in dismissing Shri Santosh Kumar Srivastava, Clerk Gr. II, Umaria Colliery from Company's services w.e.f. 1-10-1990 is legal and justified ? If not to what relief is the concerned workman entitled to ?"

2. The case of the workman is that he was working as a clerk sincerely and faithfully in the Umaria colliery of S.E.C.L. He was given a chargesheet that he has prepared the N.C.W.A. Arrears of Shri Pansa Singh on 8-1-90 for Rs. 14073/- and in this arrears deliberately showed an excess of Rs. 6000/-. When a cheque of Rs. 14073/- was received by Shri Pansa Singh the workman took this cheque and opened an account in the name of Pansa Singh. The workman paid only Rs. 5000/- to Pansa Singh and kept the remaining amount with him. Thus he cheated the SECL and overcharged the Colliery to his own benefit. The workman denied the charge. A Departmental Enquiry was held against him. The workman participated in the enquiry and cross examined management witness. He also produced defence witness. The Enquiry Officer found the workman guilty of misconduct and submitted his report. The Disciplinary Authority dismissed the workman on 1-10-90.

3. The contention of the workman is that the punishment given to him is harsh. The other employees of the management had been dealt leniently on similar charges. The workman further asserted that he has committed a bonafide mistake and his intentions were not criminal. The workman prays that the order of termination be quashed and he be deemed to be in service from 1-10-90 upto this date. Workman also claims wages and allowances.

4. The case of the management is that the enquiry has been conducted according to rules and according to principles of natural justice. The charge against the workman has been proved. Looking to the gravity of misconduct the punishment given to the workman is balanced. The management seeks confirmation of the findings and punishment. The prayer of the management is that the Award be given in its favour.

5. The Preliminary Issue framed in this case is :

"Whether the Departmental Enquiry conducted by the Management is legal and Proper ?" Vide Proceedings dated 27-7-95 the workman admitted the Departmental Enquiry Papers. After hearing the parties the Hon'ble Court vide order dated 4-1-96 held that the Departmental Enquiry conducted by the management is legal and proper.

6. On the DE management witness Shri Pansa Singh has stated that he has been given a cheque for Rs. 14073/- on 8-1-90 as N.C.W.A. arrears. Same night the workman came to his house and collected the cheque from the witness on the ground he will open the account in the name of the witness and encash the cheque. The cheque was cashed by the

workman and only 9000/- (Rupees) was given to the witness. The workman told the witness that only Rs. 8000/- was N.C.W.A. arrears and the remaining amount belonged to the Colliery and the witness will be in trouble if he made a report. Thus the witness reported the whole matter in writing to S.O.M. Umaria. This witness has been cross examined in length but his testimony has stood the test of Cross Examination. He has immediately reported the matter to the Colliery and narrated the incident to management witness Shri Ramcharitra Tiwari, Mining Sardar. His narrating the incident to R. C. Tiwari is natural. The evidence of Pansa Singh inspired confidence.

7. Management examined the Shri R. C. Tiwari, Mining Sardar in the DE. This witness has stated that Shri Pansa Singh was weeping and an enquiry told him that the workman has taken Rs. 5000/- from his arrears of N.C.W.A. This witness took Shri Pansa Singh to the Office of S.O.M. Umaria and complained against the workman. Shri Pansa Singh gave his complaint in writing to Shri S. K. Pal S.O. Umaria. This witness supported Shri Pansa Singh in all the minor details. In cross examination this witness could not be dislodged from the earlier statement. I believe this witness.

8. The two management witnesses produced by the workman are of no help to the workman.

9. It has been proved in the DE that the workman deliberately made over payment to Shri Pansa Singh. Out of the amount given to Shri Pansa Singh the workman deducted Rs. 5000/- as his share of the over payment deliberately done by the workman. I agree with the findings of the DE Officer that the workman is guilty of misconduct.

10. The workman in para 19 of Statement of Claim has stated that in similar situation and charges Shri Giridhar Chowdhry, Shri Usman Khan and Shri Allaudin, no punishment has been given and his case be dealt in a similar manner. Workman was given nine adjournment to lead evidence on this point. In spite of nine opportunity given to him the workman failed to produce a single witness and did not file any document to prove this point. The chargesheet served to this employee was also not produced. The punishment order has also not been produced. In cross examination on his affidavit the workman has stated that he does not know what are the charges levied against the workman and what was the report of the Enquiry Officer in the Departmental Enquiry. This the workman miserably failed to prove that other employees facing the same charges were dealt leniently by the management.

11. The workman has challenged the quantum of punishment. As stated above it has been proved in the Departmental Enquiry that the workman deliberately inflated the arrears bill of Shri Pansa Singh and snatched Rs. 5000/- from this payment of Shri Pansa Singh as his share of the inflated bill. Thus the workman has cheated the management to the tune of Rs. 5000/- The only punishment which workman deserve is termination of service. A lesser punishment will send wrong signal to other employees and encourage them to indulge in malpractices with impunity. The punishment given to the workman is confirmed.

12. The workman has no case. The Award is given in favour of the management. Parties to bear their own costs.

13. Copies of the Award be sent to Ministry of Labour, Government of India as per rules.

D. N. DIXIT, Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1999

का.धा. 3237.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधन के संवद निोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-10-99 को प्राप्त हुआ था।

[सं. एल-22012/62/83-डी-III (नी)/डीवी]  
एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 13th October, 1999

S.O. 3237.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of W.C.L. and their workman, which was received by the Central Government on the 12-10-99.

[No. L-22012/62/83-D. III(B)/DV]  
N. P. KESVAN, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT, JABALPUR (MP)

NO. CGIT/LC/R/79/84

PRESIDING OFFICER : SHRI D. N. DIXIT

The Sub Area Manager,  
Jhimar Sub Area of  
Western Coalfields Ltd.,  
PO Jhimar Colliery,  
Distt. Shahdol (MP)

... Non-applicant

Versus

The General Secretary,  
M. P. Colliery Workers Federation,  
PO South Jhagrakhand Colliery,  
Distt. Shahdol

... Applicant

#### AWARD

Delivered on this 4th day of October, 1999

1. The Government of India, Ministry of Labour vide order No. L-22012/62/83-D. III(B)/D. V. dated 12-10-84 has referred the following dispute for adjudication by this tribunal—

“Whether the action of the management of Jhimar Sub-Area of Western Coalfields Ltd., Distt. Shahdol in refusing employment to the workman as per the list submitted by the Union, in implementation of mutual settle-

ment dated 4-7-82 is reasonable and justified? If not, what relief the concerned workmen are entitled to?”

2. The case of the Union is that Hasdeo Area was formally a part of the Western Coalfields Ltd. but now he is a part of South Eastern Coalfields Ltd. It has got seven sub-areas and each sub-area is under the control of the manager, Jhimar sub-area is under the Hasdeo Area. It consists of 3 collieries namely New Jhimar Colliery (9&10) South Jhimar Colliery (11 & 12) and Malga Incline Colliery. All these collieries are situated in Shahdol District of M.P.

3. According to Union, the normal practice in Hasdeo Area is to employ persons without sponsorship by employment exchange and without interview and deploy them in different mining jobs covered by the recommendations of the Wage Board for coal mining industry. This is done both in the underground and on surface. This labour is deployed directly by the management and through the contractors. Statutory records like form B register, Form C register etc, are not maintained in respect of these workers.

4. The further contention of the Union is that when these workers and different Unions raised voice against this practice the management takes them on colliery roles and begins paying them under NCWA rates. Some time the management does so out of their own record and sometimes it is done by mutual settlement with the Unions. This practice was started in 1975 and it is still voice and still a large number of workers are employed in this manner and taken on collieries roles on demands, agitations and settlements.

5. The further contention of the Union is that in the Jhimar Sub-Area about 300 workers were employed as per practice and engaged in different mining jobs, these workman were deployed both in underground and surface. They were not paid wages according to NCWA rates. On the demand of the Union 125 workers were taken by the colliery from 1-7-81, and paid wages under NCWA Agreement. About 276 persons were not taken on colliery roles and not paid wages as per NCWA rates. The Union served a strike notice on the management of Jhimar Sub-Area on 10-6-82 and a mutual settlement was arrived between the management and the Union on 4-7-82. According to this settlement, demand no. 1 and demand no. 32 were accepted by the management. In partial implementation of the above settlement, the management took 29 persons on the colliery roles from 1-7-82. The remaining workers were thrown out of employment from 30-6-83.

6. Jhimar Sub-Area is developing every day and mines are coming up which require huge number of workers. These workers are taken on colliery roles and the management has vacancies to absorb the persons deprived of job.

7. The Union wants the biparty settlement dated 4-7-82 be given effect to and persons whose names have been given by the Union be absorbed from the date of a termination and they be paid wages for this period.



8. The case of the management is that the reference is vague and the list of workman claiming relief is not given with the reference. The biparty settlement dated 4-7-82 is signed by Shri P. S. Sharma who was the Sub-Area Manager and Shri S. N. Prasad Dy. Personal Manager. They were not competent to enter into any settlement in respect of employment of labour. The company has not delegated the power of employment to Shri P. S. Sharma and Shri S. N. Prasad. This settlement is not binding on SECL.

9. The further contention of the management is that settlement dated 4-7-82 is vague and cannot be implemented. This settlement is against the public policy and violates Sec.-23 of the Contract Labour Act.

10. The further contention of the management is that the SECL is a public sector company and the undertaking of the Central Government employment in the company is governed by rules and regulations. Contrary to this, no employment can be given to any worker. The Union has no authority to submit a list for employment of its member ignoring the rules of recruitment.

11. The further contention of the management is that the Union was pressurising the management by hunger strike a threat of General strike and succeeded in getting the signature of the Sub-Area Manager in the settlement dated 4-7-82. Even in this settlement employment is to be given to only those persons who are suitable and subject to normal conditions. The claim of the Union is without any justification and it should not be allowed. The management wants that the reference be answered in their favour.

12. It was decided by the management to open new colliery namely Malga Incline under Jhimar Sub-Area on 6-4-81. This required some civil work, construction of road, temporary sheds and buildings. All these works were given to contractors. This project has to be closed down in May-82. The Union issued a strike notice on 10-6-82 making a demand for 37 points. There was threat of Hunger Strike and violence. In this background a settlement dated 4-7-82 has taken place. Shri P. S. Sharma the manager Jhimar Sub-Area was assaulted by a labourer namely Mathura Prasad. It again shows the straight of pressure and the mood of the Union at the time the agreement 4-7-82 was signed.

13. The agreement dated 4-7-82 between the Union and the management is not just and fair. The circumstances leading to the settlement were not normal. Only one Union has given a strike notice. The Manager Shri P. S. Sharma has been assaulted prior to the settlement. He has not taken the approval of his superior. It only shows that Shri P. S. Sharma acted independently and signed the settlement. He has not been authorised by his superior officer and ultimately by the General Manager of the SECL. The nature of settlement shows that it was a policy decision. The other sub-areas were also effected with this settlement. Shri P. S. Sharma was not competent to take a policy decision thus he was not competent to make this settlement with the only one Union. The settlement dated 4-7-82 is not signed by the competent person representing the management only one union has signed the agreement. On this ground it is not binding on the management.

14. The question of justness, fairness and reasonableness of the settlement has to be examined by this court. The agreement mentions that all the person mentioned in the list submitted by the Union shall be taken in 4-A seen Colliery. Such an undertaking cannot be given by the management. There are rules and regulations for appointment in every colliery of the management. The claimants were not appointed by the management on casual or daily wages. The initial appointments of the claimants were not done according to the prescribed rules and regulations. The claimants were contract labour. All 138 labourers for whose benefit the present reference has been made were employed by the contractor. The Management has not developed a relationship of master and servant in respect of these 138 labourers. Thus the management was not liable to regularise them and make a settlement in this respect. Giving employment to 138 labourers employed by the contractor deprives the general public of all these jobs. Such a settlement is contrary to law and not enforceable by the courts. This settlement has been abruptly signed and showed the negligence and mistake on the part of Shri P. S. Sharma to sign it.

15. The contents of the settlement are forbidden by law, opposed to public policy and immoral. This settlement is not in accordance with the statutory provisions.

16. According to witness Gopal Singh, who so ever entered the mine, has to sign form C register. None of the claimants have signed form C Register. This fact alone proves that the claimants were not engaged in the mining activity and no settlement can be made to absorb them in the mine.

17. W.W-2 Shri Balram has stated that they were in the incline. The mine could not be worked because the villagers went on strike. This fact proves that the claimants were not engaged in the mining operation. As such, the claimants cannot claim regularisation. This also makes the settlement dishonest.

18. The Union has not proved that in all the 138 claimants had worked for 190 days inside the mine or 240 days in the surface. Thus the claimants were not liable to be absorbed in the colliery. Thus the claimants did not have requisite qualification to be absorbed in a colliery. As such the settlement is without basis. It cannot be implemented. At the time of settlement, the list of 138 claimants was not given to the management. Thus the settlement is vague in respect of Identity of the claimants. Such an agreement is illegal and cannot be implemented. Even in the present reference, the list of claimants is not enclosed. Such a reference is bad in law.

19. Without disclosing to the management, at the time of signing the settlement dated 4-7-82, the names of the claimant Union has committed misrepresentation. The intention of the Union was to give any 138 names later on and to get employment to these people by confirming their eligibility of absorption. Such a settlement is contrary to members of natural justice, commonsense and law. It cannot be given effect to.



20. The Union has based its claim on the settlement dated 4-7-82 alone. All these labour was employed by the contractor. They were employed contrary to rules and regulations. They were not employed by the management. As such, they cannot be taken in the service of the colliery. As already stated the list of claimants was not given to the management at the time of signing the settlement. Thus the identity of the beneficiaries was not clear when the settlement was signed. Such a vague settlement cannot be enforced. Union wants that irregular appointment given to 138 labour by the contractors be legalised and regularised. Such a relief cannot be granted by a court of law. The demand of the Union is unnatural, illegal, irregular and against all canons of natural justice.

21. The Union has no case. The award is given in favour of the management. Parties to bear their own cost.

22. Copies of the award be sent to the Ministry of Labour, Government of India, as per rules.

D. N. DIXIT, Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1999

का.आ. 3238.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस.ई.सी.एल. के प्रबंधन के संबद्ध निोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-10-99 को प्राप्त हुआ था।

[सं. एन-22012/74/94-आई आर (सी-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 13th October, 1999

S.O. 3238.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.E.C.L. and their workman, which was received by the Central Government on the 12-10-99.

[No. L-22012/74/94-IR(C-II)]  
N. P. KESAVAN, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT, JABALPUR (MP)

PRESIDING OFFICER—SHRI D. N. DIXIT.  
CASE NO. CGIT/ILC/3127/94

The General Manager,  
Hasdeo Area of  
South Eastern Coalfields Ltd.,

Versus

Applicant

The General Secretary,  
National Colliery Workers Federation,  
PO South Jhagrakhand Colliery,  
Distt. Surguja (MP) ... Non-applicant

#### AWARD

Delivered on this 23rd day of August, 1999

1. The Government of India, Ministry of Labour vide order No. L-22012/74/94-IR(C-II) dated 3-8-94 has referred the following dispute for adjudication by this tribunal—

“Whether the action of the General Manager Hasdeo Area of SECL in not considering non-matriculate clerks for promotion beyond clerk Grade-I as settled under conciliation settlement dated 17-11-82 is legal and justified? If not, to what relief the employees mentioned in the Annexure are entitled to?”

2. The admitted facts of the case are that the 16 employees whose names are given in the annexure to the reference are working as clerk Gr-I in Hasdeo Area of the South Eastern Coalfields Company Ltd., in various offices. The educational qualification of all these employees is non-matric. All these employees were clerk Grade-II. By settlement dated 17-11-82, they have been promoted to clerk Grade-I.

3. The case of the workman/Union is that by settlement dated 17-11-82, the condition of educational qualification being matriculate has been relaxed and non-matriculate clerk Gr-II has been promoted as clerk Grade-I hence their further promotion as Sr clerk Special Grade Clerk and O.S. cannot be denied to them. By Agreement dated 17-11-82, written test was taken and the non-matriculate clerks were eligible for promotion on passing a written/oral test. Those employees who have passed this oral written test will deem to have passed matriculation examination. Thus not giving further promotion to clerks Grade-I is unjust and illegal. The management has not promoted clerk Grade-I to Sr. post only on the ground that they are not matriculate. The juniors in the cadre have been promoted. The Union wants that from the date of promotion of the juniors, the same post and pay benefit be given to clerks Grade-I who are non-matriculate.

4. According to management, the nationalisation of coal mines, it was found that private companies has engaged non-matriculates as clerk Grade-II. The cadre scheme for promotion in the clerk grade came in the year 1984. From the date of nationalisation till 1984, rules framed by NCDC were followed. As per these rules, the non-matriculates were not entitled for promotion. The present Union gave a strike notice to the management and started hunger strike from 1-11-82. To meet this contingency an agreement was arrived between the Union and the management on 17-11-82. This agreement came to an end by coming into force of the cadre scheme of the joint biparty committee for coal industry in the year 1984. This joint committee consisted of various trade unions and management. By coming into operation of this cadre scheme the agreement dated 17-11-82 came to an end. Thus there is no agreement between the Union and the management that non-matriculate clerk Grade-I will be promoted to superior post.

5. The cadre scheme has been finalised by a joint biparty committee for coal industry consisting of setting directors of Coal India representing the management and all the representatives of Central Trade Unions viz. CITU, BMS, HMS, INTUC & AITUC. Instruction No. 40 of the cadre scheme formulated by the JBCCI states at Sl. No. 6 that "all the instructions and orders" issued on the subject shall be deemed to have been repelled simultaneously with the coming into force of this scheme." The instruction No. 40 came into force on 5-12-84. Thus all the instructions and orders issued on the subject stand repelled from 5-12-84. The agreement and statement arrived at between the Union and management on 17-11-82 also was repelled on 5-12-84. The Union pursuing this present matter is part of INTUC. The JBCCI had representatives of INTUC. Thus the present Union was party of the settlement which gave Instruction No. 40 of the cadre scheme. Thus I find that the settlement dated 17-11-82 came to an end on 5-12-84 when the cadre scheme of the JBCCI came into force.

6. Instruction No. 40 dated 5-12-84 which is Ex-M-III states that the existing employee who are non-matriculate shall be promoted up to Clerk Grade I. The workman are already in clerk Grade I. Their further promotion as a special grade clerk and OS is not possible because they are not matriculates.

7. In the statement of claim in para-18, the Union wants this declaration from this court that those clerks grade II who got their promotion because of conciliation agreement dated 17-11-82 be treated as matriculates. No agreement can give educational qualification to any employee. The educational qualification is governed by examination conducted by recognised education board. The Coal Industry or its subsidiary cannot by an agreement declare a person as matriculate. The demand is unreasonable and without any basis.

8. Then on-matriculate clerks have already received one promotion from clerk Grade II to clerk grade I. They cannot be granted any further promotion since they do not fulfil the Educational qualification. The case of the Union is extremely weak and unconvincing. The award is given in favour of the management. Parties to bear their own cost.

9. Copies of the award be sent to the Govt. of India, Ministry of Labour as per rules.

D. N. DIXIT, Presiding Officer

नई दिल्ली, 15 अक्टूबर, 1999

का.आ. 3239 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डायरेक्टोरेट ऑफ जीओलोजी माईनिंग के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-10-99 को प्राप्त हुआ था।

[सं. एल-22012/103/94-आई आर (सी-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 15th October, 1999

S.O. 3239.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Directorate of Geology Mining and their workman, which was received by the Central Government on the 12-10-99.

[No. L-22012/103/94-IR(C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT, JABALPUR (M. P.)

Presiding Officer : Shri D. N. Dixit,

CASE NO. R/124/94

Shri Anuk Das and  
11 others,  
Rajinder Camp

...Applicant

Versus

Officer Incharge,  
Directorate of Geology Mining,  
M.P. Government, Rewa ... Non-applicant

AWARD

Delivered on this 13th day of September, 1999

1. The Government of India, Ministry of Labour vide order No. L-22012/103/94-IR(C-II) dated 2-8-84 has raised the following dispute for adjudication by this tribunal—

"Whether the action of the Officer Incharge, Directorate of Geology and Mining, M.P. Government, Rewa in terminating the services of 12 workers of Rajnagar camp is legal and justified? If not, to what relief these workers are entitled to?"

2. The Union remained absent continuously from 16-10-98. It seems that the Union is not interested in prosecuting the present case. The award is passed in favour of the management.

3. Parties to bear their own cost. Copies of the award be sent to the Ministry of Labour, Government of India as per rules.

D. N. DIXIT, Presiding Officer

नई दिल्ली, 12 अक्टूबर, 1999

का.आ. 3240 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स बी. सी. सी. एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. 2, धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-10-99 को प्राप्त हुआ था।

[सं. एल-20012/110/90-आई आर (सी-I)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 12th October, 1999

S.O. 3240.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C. Ltd. and their workmen, which was received by the Central Government on 11-10-99

[No. L-20012/(110)/90-IR(C-I)]  
N. P. KESAVAN, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

#### PRESENT :

Shri B. B. Chatterjee, Presiding Officer,

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO 30 OF 1990

#### PARTIES :

Employers in relation to the management of Block II O.C.P. in Block II Area of M/s. B.C.C.L. and their workmen.

#### APPEARANCES :

On behalf of the workmen : Shri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union.

On behalf of the employers : Shri B. Joshi, Advocate.

STATE : Bihar. INDUSTRY : Coal.

Dated, Dhanbad, the 30th Sept. 1999

#### AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(110)/90-I.R. (Coal-I), dated, the 30th October, 1990.

#### SCHEDULE

“Whether the Management of Block-II O.C.P. in Block-II Area of M/s. B.C.C. Ltd. is justified in changing the posts and category of wages rates of the workmen detailed below vide notice dated 15-9-88 alleged to have been given under Section 9(A) of the I.D. Act, 1947.”

1. Shri Kameshwar Thakur.
2. Shri Bodhi Mahato.
3. Shri Chottan Barahi.
4. Shri Sahdeo Balder.

5. Shri Kunju Bhugat.
6. Shri Lalji Yadav.
7. Shri Abdul Mia.
8. Shri Shamauddin Mia.
9. Shri Gambhir Mehra.
10. Shri Keshwar Bhuian.
11. Shri Yusuf Mian.
12. Shri Bharav Mehra.

2. The concerned workmen have made out a case in their W.S. to the effect that they had been working in the category mentioned in the annexure attached to the W.S. of demand of the concerned workmen for a long period without any blame from any corner on receiving basic wages as mentioned in that annexure on the recommendation of NOWA-I, II and III. But all on a sudden the management reduced the category and basic wages of the concerned workmen from April, 1988. The action of the management in introducing change in the category and basic wages of the concerned workmen was illegal, arbitrary and against the principles of natural justice and for all practical purposes such change resulted in demotion of the concerned workmen, which too is illegal and against the provision of Standing order of the company.

3. The union raised an industrial dispute challenging the legality etc. of the action of the management and in course of conciliation proceeding the stand of the management was that the management has changed the service condition of the concerned workmen under the provision of Section 9A of I.D. Act. The Union challenged the contention of the management on the ground that by service of notice under Section 9A the management has no right to demote the workman and the notice itself under Section 9A of the I.D. Act was illegal which was issued under the signature of the G M on 19-8-88 proposing to effect the change with effect from 1-9-88. The management in view of the objection raised on the side of the union tried to manipulate the document by interpolation of the date of issue as 15-9-98 and proposed change with effect from 8-10-88. The conciliation proceeding ultimately ended in failure according to the concerned workmen due to adamant attitude of the management and thereafter the Ministry of Labour Govt. of India has been pleased to the point mentioned above.

4. The action of the management in changing the post and category, wage rate of workmen mentioned in the order of reference was illegal, arbitrary and against the principles of natural justice. The notice under section 9A was illegal and against the provision of the Standing order. The action of the management was vindictive and amounts to anti-labour policy and on all these ground the concerned workmen have prayed for an award in their favour by answering the reference with a direction to the management to restore the original category and wage rate of the concerned workmen with retrospective effect with all arrears of wages and consequential benefits.

5. The management side also submitted their W.S. wherein the management have challenged the legality and maintainability of the present reference and have made out a case to the effect that the

workmen were found working on the job other than the job prescribed in the designation they were having although they were drawing wages of higher category according to their designation but not according to the nature of job performed by them. The management implemented the policy for "Equal pay for equal work" and it was felt necessary to review all cases of O.C.P. Block II and to regularise all of them by placing them on grades and category according to the nature of work performed by them irrespective of designation given to them. The management also decided to fix the workmen in their appropriate grade category according to the nature of job performed by them and to give them designation according to the nature of job. The case of the workmen were examined in the light of the policy decision of "Equal pay for equal work" and they were placed in the appropriate grade after issuing notice under Section 9A of the I.D. Act, 1947 read with the Rule 34 of the Industrial Disputes (Central) Rules. The notice dated 15-9-88 were issued to the concerned workmen proposing to effect the change of their grade and post with effect from 3-10-88. The copies of the notices were displayed on the notice board of the office of the G.M. Block II, the notice board of the main entrance of Block II O.C.P. and another copy was displayed on the notice board at the office of the Manager Block II O.C.P. Copies of the notices were sent to all the union and to the ALC (C) Dhanbad, RLC (C) and Chief Labour Commissioner (C) New Delhi. The management has the powers to change the service condition after issuing notice under Section 9A of the I.D. Act, 1947 and accordingly the management fixed the concerned worked on the appropriate grades, scale of pay and categories according to the nature of the job performed by them. The management however did not reduce the wages by introducing such change while giving the effect to the same without fixing their wages in the appropriate grade, were made. The basic grade after conversion in the new category was thus protected and was not reduced. The claim of the concerned workmen to continue holding the designation and getting the higher grades and higher categories without having any link with the nature of the job performed by them cannot be acceded to by the management. The wages are fixed for each and every type of job carried on in the coal industry and in terms of various NCWAs, read with Coal Wage Board Recommendation and a workman is entitled to the wages according to the job performed by him. Such a workman cannot claim higher wages for performing job of lower category and similarly the management cannot pay lower wages by giving lower designation to a workman performing higher category of job. According to the management the present dispute has been raised by the concerned workmen with a motive of continuing in higher category illegally for the purpose of getting higher wages by performing lower category of job which is not at all justified. The claim of the workmen are thus without any merit and the same should be denied. The concerned workmen are therefore not entitled to any relief. The present reference according to the management is therefore liable to be decided in favour of the management justifying their action.

6. In addition to the W.S. the management side have also submitted their comments in respect of the

contents of different paras of the W.S. of the concerned workmen and in doing so the management have denied the contents of para 1 of the W.S. by claiming the same to be incorrect while in respect of para-2 and 3 those are being the matter of record. The management abstained from giving any comments but reserved their right to explain the correct position at the time of hearing. In respect of contents of para 4 and 5 of the W.S. of the workmen the say of the management is that those are incorrect and as such denied. It is also denied that the action of the management in fixing the concerned workmen at appropriate categories and appropriate basic wages was illegal, arbitrary and against the principle of natural justice. In respect of contents of para-6 the say of the management is like that of contents of para-2 and 3 of the W.S. of the concerned workmen although the management admitted that the union raised an industrial dispute bringing various allegations against the management. They say of the management is that the concerned workmen were not performing their duties according to the designation they were having and the wages they were drawing. The management by issuing notice under Section 9A of the I.D. Act simply stopped such illegal payment to the concerned workmen and it was not a case of any demotion of a person from higher category to lower category. In respect of contents of para-7 of the W.S. of the concerned workmen the say of the management is that those are matter of records and the correct position would be explained at the time of hearing while the say of the management in respect of rest of the paras of the W.S. of the workmen that those are incorrect and as such denied. In submitting such type of comment the management side has again claimed that the concerned workmen are not entitled to any relief to the reliefs prayed for by them in the prayer portion of their W.S.

7. The point for decision is whether the concerned workmen are entitled to a favourable order on the reference by an order in the form of direction to the management to restore their original category with further direction for payment of wages of that category with retrospective effect and thereby payment of all arrears of wages by answering the schedule of reference that the management of O.C.P. Block II Area of BCCL in changing the post and the categories of wages of the concerned workmen under Section 9A of I.D. Act is not justified.

8. DECISIONS AND REASONS : For the purpose of deciding the above point it is to be looked into if the so called notice admitted as Ext. M-1 was actually notice under Section 9A of the I.D. Act for the purpose of introducing change of the conditions of service in respect of any of the matters mentioned in the Fourth Schedule or not. There is no dispute that certain changes in the category of the concerned workmen have been introduced by issuing notice under Section 9A (vide Ext. M-1). The only witness examined on the side of the management has claimed during his examination-in-chief that the change in the so called service conditions was intended in the instant case for the purpose of the policy of the company "equal pay for equal work." But during cross-examination the witness had no other alternative but to admit that the management for the purpose of making the policy of equal pay for

equal work applicable in the case of the concerned workmen the categories of workers were changed by bringing down some of the workers from Cat. IV to J, from Cat. III to Cat. II or I and so on as admitted by the witness in course of cross-examination in respect of particular workman. The witness MW-1 also admitted that by demotion of a worker or any kind of withholding amounts to minor punishment and that the rate of increment as well as allowances of higher categories are higher than lower categories. Careful consideration of the oral evidence of MW-1 is sufficient to indicate that the management in the garb of adopting certain policy like equal pay for equal work instead of introducing any change in the service conditions of the concerned workmen and as mentioned in the Fourth Schedule by issuing notice under Section 9A of the I.D. Act has awarded punishment to them by way of Lowering their categories without any justifiable cause. Fourth Schedule to the Act does not show any of the items mentioned therein eludes changes of conditions of service by lowering the categories of the mazdoors amounting to demotion and thereby punishment. In addition the notice under Section 9A (Ext. M-1) if looked into carefully will show if the same was issued bonafide for the sole purpose of changing the conditions of service because of alteration and over writing the date of issue, the date of giving effect etc.

9. It was submitted on the side of the management that it is the inherent power of the management introduce change in the conditions of service of its workers given by Section 9A of the I.D. Act and the management by introducing such change has committed no wrong. The workmen are therefore not entitled to any relief in this reference. Well, even in case if it is accepted that the management has got such inherent power in that case also that power is to be exercised in respect of items specified in the Fourth Schedule to the Act and not by way of punishment without following the principles of natural justice which has practically been done in the case of the concerned workmen as it is evident from the evidence of MW-1 specially during cross-examination. I am therefore find myself unable to be one with the submission of learned Advocate for the management. The result is that the above point is liable to be decided in favour of the concerned workmen and I do decide the same accordingly by holding that the management of Block II O.C.P. in Block II Area of M/s. BCCL Ltd is justified in changing the post and category of wages rates of the workmen of this reference by notice dt. 15-9-88 alleged to be under Section 9A of the I.D. Act, 1947. The management is hereby directed to restore the original category and wage rates of the concerned workmen with retrospective effect and pay all arrears of wages as well as other consequential benefits within three months from the date of publication of this Award.

This is my Award.

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1999

का.प्र. 3241.—श्रीयोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन प्रैक्टिस, जबलपुर के प्रमुख के विवाद निपटारे

प्रीर उनके कर्मचारों के बीच, अनुबंध से निविष्ट औद्योगिक बड़ा में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचायत को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-10-99 को प्राप्त हुआ था।

[सं. प्र-14012/37/93-आई.आर. (डी.ए.)]

कुलदीप राय वर्मा, ईस्क अधिकारी

New Delhi, the 13th October, 1999

S.O. 3241.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Vehicle Factory, Jabalpur and their workman, which was received by the Central Government on the 13-10-99.

[No. L-14012/37/93-IR(DU)]

KULDIP RAI VERMA, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)

PRESIDING OFFICER SHRI D. N. DIXIT

CASE NO. CGIT/LC(R) (204)094

Shri Lalmuni Ram,  
Represented through  
Shri B. D. Guha Thakurta  
General Secretary  
Vehicle Factory Mazdoor Union,  
Quarter No. 2200,  
V.P.I. Estate,  
Jabalpur (M.P.)

Union

V/s

General Manager,  
Vehicle Factory Jabalpur,  
Jabalpur (M.P.)

.. Management

#### AWARD

Delivered on this 17th day of August, 1999

1. The Government of India Ministry of Labour vide its Order No. L-14012/37/93 JR (DU) dated 10/15-11-94, has referred the following dispute for adjudication by this Tribunal :

#### SCHEDULE

"Whether the action of the management of Vehicle factory, Jabalpur in stopping the one increment for a period of one year of Shri Lalmuni Ram Fitter T.N. TAN/45/02092 Vehicle Factory, Jabalpur w.e.f. 5-10-90 is legal and justified? If not to what relief the concerned workman is entitled to?"

2. The case of the workman Shri Lalmuni Ram is that he was given a chargesheet on 11-4-85. The facts were false and fabricated. The workman denied the charges. The DE was held against the workman and the charges were found to be proved. On 5-10-90 he was punished and his one increment for a period of one year was stopped. The workman filed an appeal which was rejected by Appellate Authority. According to workman the charges were vague. The procedure adopted in the DE was arbitrary and against principals of natural justice. The workman has not been given reasonable and full opportunity to defend himself in the DE. The findings of the enquiry are not based on material on record. The workman wants that order of punishment dated 5-10-90 be set aside and the workman be given one increment in the salary.

3. The case of the management is that the workman refused to work on 4-3-85 and 5-3-85. On 5-3-85 Shri Indrajit Singh, Foreman persuaded the workman to do his job. The workman shouted at the Foreman and abused him. On the report of the Foreman chargesheet was issued to the workman. He pleaded not guilty and a Departmental Enquiry was held against the workman. The workman contested this enquiry. The Enquiry Officer found workman guilty and submitted his report. The Appointing Authority imposed the penalty of stoppage of one increment for one year. The workman was given full opportunity to defend himself. The findings of the Enquiry Officer is based on evidence given by the management. The findings are logical. The punishment imposed is in proportion to his misconduct. The management wants the Award in their favour.

4. This Court's Order dated 9-9-93 found that procedure adopted in the DE is just, proper and legal.

5. On 22-7-97 workman has admitted the DE papers. Thus the evidence recorded in the DE is admissible for this Court.

6. The following two charges were framed against the workman.

- (a) Disobedience of the order of the Superior and refusal to work.
- (b) Using abusive language to his Superiors and giving threats to the Superiors.

7. The Enquiry Officer by his findings on 28-9-89 has found that the above mentioned second charge is not proved against the workman only the first charge is proved and the punishment imposed on the workman is in respect of disobedience of the order of the Superiors and refusal to work.

8. In the DE Shri A.P.C. Kapoor said that on 5-3-85 the workman did not do my work. On the previous day 4-3-85 he did not do any work. On 4-3-85 the workman was given Wage Reduction Memo. Shri I. J. Singh has also stated this very thing in his report dated 5-3-85. Thus it has been proved by management witness that on 4-3-85 and 5-3-85 the workman did not do the work assigned to him and on being persuaded by Shri I. J. Singh his superior the workman disobeyed him. The management has proved the charge of disobedience and refusal to work by the workman.

9. The workman has emphasised on the fact that he was hurt on the left palm hence he was not in a position to do the job of break fitting which was allotted to him. It was for the workman to prove that he was hurt on the left palm and hence could not work on 4-3-85. The workman led no evidence on this point.

10. There is a provision of leave on medical grounds in the management factory. If in reality the workman was hurt he could have produced Medical Certificate and either he could have given complete rest or light duty on the suggestion of the Doctor. The workman did not obtain a medical certificate for the injury and did not produce a medical certificate to his superior who was allotting work to him. The non production of medical certificate to the Superior Staff creates a serious doubt in the contention of the workman.

11. What is gathered is that the workman did not work on 4-3-85 and 5-3-85 on the pretext that his left hand is hurt. He has not taken medical leave on these two dates. He has not produced a certificate from the Doctor that the Superior Officer giving him work should give him light work on medical ground. Thus the workman did not work and did not avail the medical leave. This clearly shows that the workman wanted to circumvent the authority of his Superior staff without any reason. The charge of disobedience of the order of the superior and refusal to work is hereby confirmed. It has been proved by evidence led by the management.

12. The punishment awarded to the workman is stoppage of one increment for a period of one year. Looking to the misconduct the punishment awarded is just and proper.

13. The workman has no case. The Award is given in favour of the management. Parties to bear their own costs.

14. Copies of the Award be sent to Ministry of Labour Government of India as per rules.

D. N. DIXIT, Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1999

का.प्रा. 3242.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गन कार्रिज फैक्ट्रीज, जबलपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-10-99 को प्राप्त हुआ था।

[मं. एल-14012/11/96-आई आर (डीयू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 13th October, 1999

S.O. 3242.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Gun Carriage Factory, Jabalpur and their workman, which was received by the Central Government on the 13-10-99.

[No. L-14012/11/96-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR (MP)

No. CGIT/LC/R/177/97

PRESIDING OFFICER : SHRI D. N. DIXIT

Shri P. K. Gupta,  
Pharmacist,  
T. No. 634/NIB,  
GCF Hospital,  
Jabalpur

Applicant

Versus

General Manager,  
Gun Carriage Factory,  
Jabalpur

Non-applicant

AWARD

Delivered on this 30th day of September, 1999

1. The Government of India, Ministry of Labour vide order No. L-14012/11/96-IR(DU) dated 26-6-97 has referred the following dispute for adjudication by this tribunal :—

"Whether the action of the management of Gun Carriage Factory, Jabalpur in imposing the penalty upon Shri P. K. Gupta, Pharmacist vide order dated 1-2-94 is proper and justified? If not, what relief the concerned workman is entitled to?"

2. The case of the workman is that he is an employee of the management and is working as pharmacist. The workman was issued a charge sheet dated 5-10-93 in which it was alleged that he had issued injections of the expired date after replacing them from the original injections which has not expired. The workman denied the charge. According to workman, he had performed duty at GCF hospital only on 8-10-92 in the absence of Smt. Premkala Mishra. On this date, he has not issued injections to Smt. Sharda Bai and Smt. Geeta Khare. Without verifying the correct facts the

management imposed the penalty of reduction of pay by two stages for 2 years vide order dated 1-2-94. It was further ordered that during the period of reduction of pay, the workman will not earn any increment of pay. Workman filed an appeal which was rejected. The workman wants that the order dated 1-2-94 be quashed and the workman be given monetary benefits withheld by this order.

3. The case of the management is that the workman was posted in the TB clinic on 8-10-92 in place of Smt. Premkala Mishra who was on leave. A complaint was received from Smt. Sharda Bai and Smt. Geeta Khare that expired streptomycin vials were distributed to them. A board of enquiry was constituted and the workman was given the charge sheet. The reply of the workman was without any merit and hence his pay was reduced by two stages for two years. According to management, no punishment was given to the workman according to rules. The management claims that they have not violated the principles of natural justice. The management seeks that the award be given in their favour.

4. This court vide order dated 3-5-99 has found that the inquiry against the workman is neither just nor proper. It is against principles of natural justice.

5. The management has examined Shri T. J. Das works Manager to prove the misconduct. He has been cross examined by the Advocate for workman. This witness has stated that for enquiry against the workman terms of reference were given to him which he has not been filed in the present case. Copy of this has also not been given to the workman. He has not given opportunity to workman to cross examine the witness. He has stated in para 4 of his cross examination that he found that the workman has not issued injections which were of expired dated. He further stated that the injections were issued by Smt. Premkala Mishra. This witness has further stated that he has not conducted enquiry against the workman. Thus the report given by management witness Shri D. J. Das on 25-6-93 does not prove the workman guilty of the charges. This report has not been produced by the management in the court. Has this report been produced, it would have gone against the management.

6. The order of punishment is Exhibit M-3. It states as under:

"the undersigned finds that there is sufficient prima facie evidence available on record to prove his guilt and holds that the charge viz. gross misconduct—tempering with the Govt. material/medicine managed to keep the date expired streptomycin vials with batch No. 2247 (expiry date 31-8-92) in the TB clinic on 8-10-92 when I/C OPD was leave and manipulated to issue the date expired streptomycin vials to two outdoor patients through Smt. Premkala Mishra, Pharmacist on 13-10-92 with ulterior motive—conduct unbecoming of a Govt. servant in violation of Rule 3(1)(iii) of CCS (Conduct) Rules 1964, framed against Shri P. K. Gupta T. No. 1634/NIE, pharmacist/GCF, Hospital, Gun Carriage Factory, Jabalpur is proved."

7. Thus order Exhibit M.3 speaks that the workman kept expired streptomycin vials in the TB clinic on 8-10-92. It further speaks that on 13-10-92, he manipulated through Smt. Premkala Mishra to issue injections changed by him in the TB clinic. There is nothing on record to suggest that the workman has replaced injections in the TB clinic on 8-10-92. Further there is nothing on record to suggest that the workman and Smt. Premkala Mishra conspired and at the instigation of workman Smt. Premkala Mishra issued expired injection bottles to patients on 13-10-92. Thus the inference of the General Manager is without any basis and evidence. No misconduct has been proved against the workman.

8. The action of the General Manager, GCF Jabalpur is arbitrary devoid of commonsense, proprietary and principles of natural justice. This order is creation of the claim of the General Manager.

9. The workman filed an appeal and the order of appeal is Exhibit M5. Exhibit M-5 also does not examine whether the workman has committed the misconduct or not. It has completely failed to grasp the points raised by the workman in his appeal Ex-M-4. This order shows that there is no application of mind by the appellate Authority. Such an appellate order is mockery of rules and justice.

10. The punishment imposed upon the workman is without any basis and arbitrary. It simply shows the carelessness of the Controlling authority and Appellate authority. The order dated 1-2-94 is hereby quashed. The workman will be paid all the monetary benefits within 3 months from the date of this order failing which the workman shall be entitled to 12 per cent per annum interest on this amount. The award is given in favour of the workman. The management to pay Rs. 5000 as cost for this case of workman. The management can realise half the amount from Shri J. M. Kewpro, General Manager and half the amount of cash from Shri J.K. Lahiri Jt. Director of the cost because it is because of these two persons that the workman has been harassed and had to take the shelter of law.

11. Copies of the award be sent to the Government of India, Ministry of Labour as per rules.

D. N. DIXIT, Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1999

का.आ. 3243.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सुपरिन्टेन्डेंट, आर.एम.एस., भोपाल के प्रबंधन के संबंध निधियों और उनके कर्मचारों के बीच, अन्वंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-10-99 को प्राप्त हुआ था।

[सं. एल-40011/14/89-आई आर (सीयू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 13th October, 1999

S.O. 3243—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Superintendent, RMS, Bhopal and their workman, which was received by the Central Government on 13-10-99.

[No. L-40011/14/89 (R(D))]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Presiding Officer : Shri D. N. Dixit.

CASE NO. CGIT/LC/R/185/90

Shri Govind Prasad,  
Shri Kundanlal,  
Or. No. J-92/F,  
West. Rly. Colony,  
Bina.

Applicants

Versus

The Superintendent,  
RMS,  
MP Division,  
Bhopal

Management



## AWARD

Delivered on this 23rd day of September, 1999

1. The Government of India, Ministry of Labour vide order No. L-40011/14/89-ERDU dated 18-9-90 has referred the following dispute for adjudication by this tribunal:—

"Whether the action of the management of the Superintendent, RMS MP Division, Bhopal in terminating the services of Shri Govind Prasad and Shri Kundanlal, Ex Extra Departmental Mailman, w.o.f. 13-7-88 is justified? If not, what relief they are entitled to?"

2. The case of the workman Govind Prasad and Kundanlal that they were employed as casual labour on 23-12-85. They were appointed as extra Departmental Mailman by order dated 1-6-88. Their services were terminated orally on 13-7-88. Termination order has not been given to them in writing. The contention of the workman is that this order of termination is illegal from 23-12-85 to 13-7-88. They have worked continuously and their termination without notice and retrenchment compensation is illegal. There are rules for Extra Departmental staff in the management. The workman were sponsored by the employment exchange. They were appointed after interview. The work which this workman were doing still exists and new persons have been appointed to do this work. This is illegal. The action of the management is unjustified and arbitrary. The workman claimed that they be deemed to be in service and he paid wages and allowances from 14-7-88.

3. The case of the management is that they were temporarily appointed as Extra Departmental Mailmen from 3-6-88 prior to it, they were actually working as labour and temporarily engaged on daily wages from April 1988. The appointment of workman was cancelled from 13-7-88. The workmen were offered the job of daily rated mazdoor which they refused. The workman has been given the copy of order dated 13-7-88. The order dated 8-6-88 was issued erroneously and incorrectly. The workman has refused to work as daily rated mazdoor. There was no need to give workman notice of retrenchment and retrenchment compensation. According to management their action is as per rules and procedure and they have committed no irregularity. The management claims that the case of the workman be dismissed with cost.

4. The workman Kundanlal has filed his affidavit and he has been cross examined on it. He has instated that from 1985 to 3-6-88, he has worked as casual labour on daily wages. On 3-6-88, he has been appointed as Extra Departmental Mailman. The management has stopped giving him work from the year '89.

5. The workman Govind Prasad has stated that he was appointed as Extra Departmental Mailman from the year '87. From 3-6-88, he has continued to work on the basis of appointment order. He has not been given work after the year '88. He has emphatically stated that he has not been given work from 1988.

6. The management has examined Shri J. P. Bajaj Superintendent, RMS. He has been cross examined on his affidavit. He has stated that both the workmen were appointed on 23-12-85 and they worked on daily rated mazdoor up to 18-10-1987. Both the workman were appointed as Extra Departmental mailmen from 3-6-88. This witness has stated that on 14-7-88, both the workman were given appointment as daily rated mazdoor on oral orders and both workman refused to work. In para. 131, he has stated that the names of the workman were sponsored by employment exchange and after interview, they were appointed as per rules.

7. According to the management witness, both workmen worked from 23-12-85 to 13-7-88 continuously firstly as daily rated mazdoor and subsequently as Extra Departmental Mailmen. Thus both the workmen have done more than 240 days of work in one calendar year. The workmen were not given retrenchment compensation and notice of retrenchment. Thus the termination of workman is contrary to law.

8. Before passing order dated 13-7-88, the workmen were not given a show cause notice. This order has been passed in an arbitrary manner. The copy of this order has not

been given to the workmen. The workmen were not reverted back as daily rated mazdoor from 13-7-88. As per management witness, Shri J. P. Bajaj both the workman were given appointment as daily rated mazdoor orally on 14-7-1988. This witness has failed to show any circular or authority to give appointment orally to any employee. The statement of Shri J. P. Bajaj clearly shows the high handedness of the management supervisory staff towards workmen. They have never taken into account, the work done by the workman from 23-12-85 till 13-7-85. They have exaggerated notions about their powers and authority.

9. The workman have proved their case that their termination from 13-7-88 is illegal and invalid. It is quashed. The workman will be deemed to be in continuous service. Within 3 months of publication of this award, workman be paid wages and allowances from 14-7-88 till date as per rules. If this is not done, the workman will be entitled to interest on this amount at the rate of Rs. 12 per cent per annum. Management to pay Rs. 2000 as cost to the workman. The award is given in favour of the workmen.

10. Copies of the award be sent to the Government of India, Ministry of Labour as per rules.

D. N. DIXIT, Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1999

का.आ. 3244—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार-महानगर टेलीफोन निगम लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, सं. 2, मुम्बई के पंचट को प्रकटित करती है, जो केन्द्रीय सरकार को 13-10-99 को प्राप्त हुआ था।

[सं. एल-40011/14/97-आई.एम. (सीयू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 13th October, 1999

S.O. 3244.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. II, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M.T.N. Ltd., Mumbai and their workman, which was received by the Central Government on the 13-10-1999.

[No. L-40011/14/97-IR(DU)]  
KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer.

Reference No. CGIT-2/75 of 1998

Employers in relation to the management of Telecom.

The Chief General Manager.

M.T.N. Ltd.,

Telephone House,

Prabhadevi,

Mumbai-28.

AND

Their Workmen.

The Circle Secretary,

All India Telecom Employees Union,

Class-III,

New Municipal Labour Camp,

Ward-2, Block-5, Room No. 1,

Sewres,

Mumbai-400015.



## APPEARANCES:

For the Employer: Mr. V. S. Masurkar, Advocate.  
For the Workmen: Mr. N. Y. Lokhande, Representative.

Mumbai, dated 24th September, 1999

## AWARD

The Government of India, Ministry of Labour by its order No. L-40011/14/97-IR(DU) dtd. 16-6-98, had referred to the following Industrial Dispute for adjudication:

"Whether the action of the management of Chief General Manager, M.T.N. Ltd., Mumbai in terminating the services of Shri Bhairudas P. Misal, workman represented by All India Telecom Employees Union Class III, is legal and justified? If not, what relief the workman concerned is entitled to?"

2. Bhairudas Pandharinath Misal (hereinafter referred as the workman) contended that he was employed by the Chief General Manager, Mahanagar Telephone Nigam Ltd. under AWCE(MLD) Mumbai, as a casual labourer somewhere in June 1986. He continued to do the work continuously till he was illegally terminated. He completed 424 days in this period.

3. The workman averred that without giving any notice and a compensation he was not allowed to join the duties from the month of March 1988. He was orally informed that he will be called back on duty within a short period. But that assurance never came into existence.

4. The union filed a statement of claim (Ex-5) for the workman. It averred that the office issued an order dtd. 28-10-91 which clearly speaks of payment of retrenchment compensation while removing the casual labourers as per the Industrial Disputes Act. It is therefore prayed that he may be reinstated in service in continuity alongwith back wages.

5. The management resisted the claim by the written statement (Ex-10). It is averred that the workman was not sponsored by Employment Exchange. He was engaged as a daily rated casual labourer locally for urgent work for some time. It is therefore there is no question of retrenchment compensation and there is no application of section 25F of the Industrial Disputes Act of 1947 as claimed by the workman.

6. The management averred that the workman never completed 240 days in a year. Infact after working 11 days in February 1988 he never turned back for employment. He abandoned the services. The fact that he did not approach the management for last ten years itself goes to show that he abandoned the services. It is denied that he was verbally informed not to come to duties and he will be informed later on to come for duties. All these contentions are totally false.

7. The management averred that the conduct of the workman namely not approaching the authorities for getting relief at earlier date clearly speaks that he abandoned the service. It is submitted that under such circumstances the workman is not entitled to any reliefs.

8. The workman reiterated the contention taken in the statement of claim and denied the contentions in the written statement which are contrary to his case. It is averred that after issuance of the circular dtd. 28-10-91 the workman through his union approached the Assistant Labour Commissioner in January 1994. It is averred that there is no delay and the Tribunal are required to condone the delay if the circumstances demanded. It is asserted that on the basis of the documents available it can be proved that the workman had completed 240 days in preceding 12 calendar months and hence he is entitled to legal compensation as per the Industrial Disputes Act of 1947 before termination of his service which is not done in the present matter. It is therefore he is entitled to the reliefs claimed by him.

9. The issues are framed at Exhibit-14. The issues and my findings there on are as follows:—

Issues	Findings
1. Whether it is proved that the workman is in continuous service as contemplated under section 25B of the Industrial Disputes Act of 1947?	No
2. Whether his services were terminated without complying the provisions of retrenchment?	Does not survive.
3. Whether the workman abandoned the service?	No
4. Whether the reference suffers from laches?	Yes
5. Whether the action of the management in terminating the services of the workman is legal and justified?	Yes
6. If not, to what relief the workman concerned is entitled to?	Does not survive.

## REASONS

10. Bhairudas Pandharinath Misal (Ex-12) the workman affirmed that he was appointed as a casual workman by the management first in the year 1986 and continued to work till the end of February 1988. He affirmed that he was terminated by the management, Mumbai on 1st March, 1988. He relied upon the BTE-004 card to show the working days. M. H. Hyderi (Ex-17) the Sub-Divisional Engineer does not dispute the employment of workman but, he disputes regarding his working days. The question was put to him regarding the production of BTE-004 card which he produced. This card refers to the working days of that individual workman.

11. From the evidence namely from the BTE-004 card which is produced by the workman and the management alongwith Ex 21 shows his working days for last 12 months proceeding his last working day. They are as follows:—

Month/Year	Total No. of days worked
1. February 1988	11
2. January 1988	30
3. December 1987	12
4. November 1987	22
5. October 1987	25
6. September 1987	2
7. August 1987	26
8. July 1987	31
9. June 1987	—
10. May 1987	8
11. April 1987	24
12. March 1987	30

221

It is very clear from the above said calculation that the workman had worked only 221 days during the period of 12 calendar months proceeding the date with reference to his last working day. It is therefore to be said that he is not in continuous service as contemplated under section 25B of the Act.

12. At this juncture I find it necessary to state that even though Misal (Ex-12) the workman affirmed that his services were terminated from 1st March, 1988 by the management, that appears to be incorrect in view of the working days shown in the above said card. He is shown to be worked till February 1988. I am not ready to accept the theory of abandonment because in normal course nobody abandoned the service. The workman is illiterate. He is a casual worker. It is therefore they go on working on a casual basis for their livelihood. It is difficult to accept he abandoned the

services, unless a substantial evidence is put on the record. There is no evidence to that effect. The judicial notice is to be taken of the fact that there were many casual workers whose services were terminated and later on in view of the directions of the Supreme Courts many of them were regularised in view of regularisation scheme. The case which is tried to be put up by Misal that he was terminated in March 1998 appears to be incorrect in view of the entries in the card that he worked till end of February 1988. I find that he approached this Tribunal in view of the letter which was issued by the management in the year 1991. He thought that on the basis of that letter it is likely that he will get the job and the arrears if possible. His conduct appears to be not fair.

13. Misal in his deposition nowhere gives any explanation for approaching the Assistant Labour Commissioner at a very late stage. In the Statement of Claim there is no mention at all. When the plea of laches is taken by the management in their written statement the workman in his Rejoinder had mentioned that he approached the Assistant Labour Commissioner in 1994 and given some citation stating that delay be condoned and there is no reference of delay in the Industrial Disputes Act of 1947. There is no dispute that Limitation is not prescribed under the Industrial Disputes Act of 1947. But, it is well settled position that when there are laches the concerned person must explain those laches. Obviously while accepting the explanation the Tribunal should not have rigid approach which is normally in other proceedings. Here in this case there is no attempt to explain the delay. There is no record to show that they approached the Assistant Labour Commissioner in 1994. I therefore, find that the reference suffers from laches.

14. I have already come to the conclusion that the workman is not in continuous employment as contemplated under section 25B of the Act. There is no question of compliance of any of the provisions of retrenchment. In the written argument the Learned Advocate for the workman tried to refer to the letter of the management dtd. 28-10-91 which refers to compliance of the provisions of the retrenchment when a casual labourers is to be terminated. The workman is not in continuous employment. Hence there is no question of any notice or payment of notice charges or compensation which is given when the workman is retrenched under the Industrial Disputes Act of 1947.

15. Hyderi affirms that the workman was not terminated. The workman affirms contrary to it. There is no letter of appointment nor there is letter of termination. But in all probability it appears that at that particular time when the work was not there the management must have asked him not to come to the duty. That has to be taken as a termination. In the result I record my findings on the issues accordingly and pass the following order:—

#### ORDER

The action of the management of Chief General Manager, M.T.N Ltd., Mumbai in terminating the services of Shri Bhanudas P. Misal, workman is legal and justified.

S B. PANSE Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1999

का.आ. 3245:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गण में, केन्द्रीय सरकार महानगर टेलीफोन निगम लिमिटेड, मुम्बई के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अन्तर्गण में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 2, मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-10-99 को प्राप्त हुआ था।

[सं. एल-40012/25/98-आई आर (डी सु)]

कुशवीर राय वर्मा, डैरु अधिकारी

New Delh, the 13th October, 1999

S.O. 3245.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. II, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Mahanagar Telephone Nigam Ltd., Mumbai and their workman, which was received by the Central Government on 13-10-99.

[No. L-40012/25/98-IR(DU)]

KULDIP RAI VERMA, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer.

Reference No. CGIT-2/123 of 1998

Employers in Relation to the Management of General Manager, M.T.N.Ltd.,

General Manager, M.T.N.Ltd.,

Telephone House, Prabhadevi

Mumbai-400028.

AND

Their Workmen

Shri Ashok Waghmare

T/M St. No. A-1, Siddarth Colony,

Chembur,

Mumbai-400071.

APPEARANCES :

For the Employer—No Appearance.

For the Workmen—Mr. N. Y. Lokhande Advocate.

Mumbai, dated 22nd September, 1999

#### AWARD

The Government of India, Ministry of Labour by its Order No. L-40012/25/98/IR(DU), dtd. 10-9-1998, had referred to the following Industrial Dispute for adjudication:

“Whether the action of the management of Mahanagar Telephone Nigam Ltd., Mumbai illegal retrenchment of Shri Ashok Waghmare, w.e.f. 22-4-1991 is legal and justified? If not, what relief the workman is entitled to?”

2. Ashok S. Waghmare filed a statement of claim at Exhibit-6. He contended that he was working with M.T.N.L. as a casual workman from November '80 to April '90. He worked continuously. The Assistant Engineer had given a statement of attendance and BTE 004 card. It is averred that on from 26th April '91. He was asked not to come to the duty. He was not served with notice nor paid any compensation. When he was removed he was temporary mazdoor. He approached the Assistant Labour Com-

missioner for getting reliefs when he came to know that he can be contacted.

3. The workman prays that he may be reinstated in service in continuity alongwith full back wages with other reliefs.

4. The management was duly served by Registered post acknowledgment due (Ex-3). But it remained absent. The matter was heard *ex parte* against the management.

5. The issues that fall for my consideration and my findings thereon are as follows:—

Issues	Findings
1. Whether the action of the management of Mahanagar, Telephone Nigam Ltd., Mumbai illegal retrenchment of Shri Ashok Waghmare, w.e.f. 22-4-1991 is legal and justified ?	No.
2. If not, what relief the workman is entitled to ?	As per order below.

#### REASONS

6. Ashok Waghmare, filed his affidavit at Exhibit-7. He affirmed that he approached the Assistant Labour Commissioner where the management filed his say on 13-9-94 (Annexure D). It clearly goes to show his working days. He affirmed that the Assistant Engineer had given a chart showing his working days and produced BDE-004 card which is at Annexure A & B. From perusal of this attendance sheet and the BDE card it is very clear that he worked continuously for more than 240 days as contemplated under Industrial Disputes Act of 1947. He affirmed that he was removed from Job in April '91 and while doing so no procedure was followed. He was not paid any compensation nor served with a notice. There is no reason to disbelieve him.

7. In the result I pass the following order:—

#### ORDER

The action of the management of Mahanagar Telephone Nigam Ltd. to Ashok Waghmare w.e.f. 22-4-91 is not legal and justified.

The management is directed to reinstate him in service in continuity and pay him full back wages.

S. B. PANSE, Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1999

का.प्र. 3246 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार द्वारा संचार विभाग, खोपोली के प्रबंधन के संस्थापित और उनके कर्मचारियों के बीच, अनुबंध में निम्नलिखित :  
3142 GI/99—26

औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 2, मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-10-99 को अल्प हस्तगत था।

[सं. एल-40012/27/99-आई प्रार (डीयू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 13th October, 1999

S.O. 3246.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. II, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Deptt. of Telecom. Khopoli and their workman, which was received by the Central Government on 13-10-99.

[No. L-40012/27/99-IR(DU)]

KULDIP RAI VERMA, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer.

Reference No. CGIT-2/163 of 1999

Employers in Relation to the Management of the sub-Divisional Officer, Telegraphs

D.O.T.,

(Maharashtra)

Khopoli-410203.

AND

Their Workmen

Mr. Anirudh Rambali Yadav

C/o. Yadav Tea Cold Drink Hotel,

Bhandari Compound, Narkholi

Bhivandi, Dist Thane-400601.

APPEARANCES :

For the Employer—Mr. S. J. Choudhary Representative.

For the Workmen—No Appearance.

Mumbai, dated 28th September, 1999

#### AWARD

The Government of India, Ministry of Labour by its Order No. L-40012/27/99/IR(DU), dt. 22-7-99, had referred to the following Industrial Dispute for adjudication:

“Whether the action of the management of Sub-Divisional Officer, Telegraphs, D.O.T., SDO Phones Khopoli in terminating the services of Mr. Anirudh Rambali Yadav is legal and justified? If not, to what relief the workman is entitled?”

2. The Desk Officer issued notices of order of reference to concerned parties. The Secretary of the Tribunal also issued notices to the concerned parties. So far as the management is concerned it was duly served and they remained present. So far as the workman is concerned the registered envelope which was sent to him came with an endorsement 'left'. Then the management was asked to give his address from their record. The management by the purshis (Ex-4) informed the Tribunal that they do not possess his address. Under such circumstances I pass the following order:—

### ORDER

The reference is disposed of.

S. B. PANSE, Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1999

का.आ. 3247.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक नोट प्रेस, देवास के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-10-99 को प्राप्त हुआ था।

[सं. एल-16011/3/84-डी-II(बी)]  
कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 13th October, 1999

S.O. 3247.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bank Note Press, Dewas, and their workman which was received by the Central Government on the 13-10-99.

[No. L-16011/3/84-D.II(B)]  
KULDIP RAI VERMA, Desk Officer

### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT, JABALPUR (M.P.)

Presiding Officer—Shri D. N. DJXIT.

Case No. CGIT/LC(R)(67)/89

Bank Note Press Office Staff  
Association, Dewas, Through  
General Secretary,  
Shri Y. S. Chouhan

2. Shri P. R. Bairagi,  
S/o Shri S. R. Bairagi,  
Upper Division Clerk,  
Bank Note Press,  
Dewas.

Union.

Versus

Union of India, Through :  
Secretary, Ministry of  
Finance, Govt. of India  
Deptt. of Economic Affairs  
New Delhi

2. General Manager,  
Bank Note Press,  
Dewas (M.P.).

Management.

### AWARD

Delivered on this 4th day of October, 1999

1. The Government of India, Ministry of Labour vide its order No. L-16011/3/84-D.II(B), dated 15th March, 1989 has referred the following dispute for adjudication by this Tribunal :

"Whether the demand of the workmen working in Bank Note Press, Dewas and represented by Bank Note Mudranalaya Shramik Sangh and Bank Note Press Office Staff Association for grant of incentive to office, Canteen, dispensary and Estate staff under Group Incentive Scheme at par with etc. of BNP with retrospective effect from 1-9-1977 is justified? If so, to what relief the workmen are entitled to and from what date?"

2. The admitted facts of this case are that the Bank Note Press Dewas is a factory registered under the Factories Act. This factory is engaged in the production of currency note and inks. The Security ink is given to various presses. The Currency Notes are sold to the Reserve Bank of India. The management is indulging into commercial activity and earning profit out of it. The Government of India vide letter dt. 21-11-75 has declared this press as Commercial Department of Government of India. This press has various sections namely control, printing, plate making, stores, workshops ink factory, dispensary, canteen and estate. Further there is an administrative section. This press is highly mechanised. With a view to increase production the Bank Press Note introduced a Group Incentive Scheme and in this Scheme the Office Staff, Staff engaged in Estate Dispensary and the Canteen were not covered. Later on the staff of the canteen has been covered by the Group Incentive Scheme from 1-11-86. From 18-9-1973 to 13-12-1975 5 per cent of the emoluments were given to present workman as incentive. From 1-1-78 to 30-6-82 the present workmen were completely excluded from the benefits of the Scheme. From 1-7-82 to 21-4-84 25 per cent of the incentive earned by the Industrial Employee were given to the present workman. This is continued up to the present.

3. The case of the Union is that for the purpose of production each section is complimentary to other and total efforts of all employee result in the production. The Office staff is generally engaged looking after the welfare of workmen, preparing their pay bill, sanction of leave, indenting material, supplying material, recruitment, planning of manpower and production etc. The dispensary staff is engaged in looking after the health and hygiene of Bank Emp-

loyee round the clock. The staff of the estate dept. is engaged in looking after the property, building and welfare of the employees. The canteen staff is engaged in preparation of meals, snacks and tea etc. All these sections are essential for smooth running of the press and for optimum production. In the Group Incentive Scheme Annexure A the illegibility clause excluding office, estate, dispensary, and canteen staff is totally arbitrary and an act of hostile discrimination. The management cannot exclude a section of employees if its aim is higher production. On a similar footing these employees are entitled to incentive scheme like rest of the employee. The management has to give the benefit of incentive scheme to every employee of the establishment. The denial to incentive benefits to workman at par with other employees of Press is bad in law and is a case of unfair labour practice. The Union wants that from 1-1-78 the employees working in office, estate, dispensary, canteen be paid incentive amount at the same rate as is being paid to employee of other sections. Union also claims interest on the amount so withheld.

4. The case of the management is that the management directed M/s. IBCON Ltd. to carry out the work study and formulate Group Incentive Scheme for Bank Note Press, Devas. This study team submitted its report and the Govt. of India accepted their recommendation which is Annexure R. This scheme has been made applicable from January, 1978. Para 3 of the scheme states that it is primarily meant for Industrial Employees in the factory who is observing the same working hours and holidays as the factory and whose presence is necessary for the efficient working of the Industrial workers. This scheme specifically exclude Office staff, estate, dispensary and canteen. The employees of this section are not engaged in production. The present workmen were given 25 per cent of the incentive bonus earned by the industrial workman from 1-2-83. Thus the petitioners who are neither engaged in the production nor observing the same working hours as the direct workers, have no basis to claim the incentive payment on a similar line to that of the industrial workers working in the factory with effect from 1-1-1978.

5. The first argument advanced by the management is that this Court cannot decide whether the incentive bonus scheme can exclude the present category of workman from its application. The argument of the Union is that the Industrial Court has superior powers than an Administrative Tribunal. Its jurisdiction is much more wider than any other Court of Law.

6. The Hon. Supreme Court in the case of *Western India Automobile V/s. Industrial Tribunal, Bombay—1949 (AIR) (FC) page 111* while dealing with the powers of the Industrial Tribunal held as follows :—

“Adjudication does not, in our opinion mean adjudication according to the strict law of master and servant. The Award of the Tribunal may contain provisions for settlement of a dispute which no Court could order if it was bound by ordinary law, but the tribunal is not fettered in any way

by these limitations. In Volume I of “Labour Disputes and Collective Bargaining” by Ludwig Teller, it is said at page 536 that Industrial arbitration may involve the extension of an existing agreement or the making of a new one, or in general the creation of new obligation of modification of old ones, while commercial arbitration generally concerns itself with interpretation of existing obligations and disputes relating to existing agreements. In our opinion, it is true statement about the functions of an Industrial Tribunal in labour disputes.”

7. The Supreme Court in the case of *Burn & Co. Vs. Their employees—1960 (2) LLJ Page-2261* (copy enclosed), held as follows :—

“It is also urged on behalf of the Company that the introduction of incentive bonus is a management function and the Tribunal should not impose it on the management and reference in this connection has been made to *Titagarh Paper Mills Co. Ltd. V/s. their workman (1959 II LLJ-9)*. In the present case, however, the incentive bonus scheme has already been introduced by the Company for the major part of its workmen and all that is now asked for is that the benefit of the scheme should be extended to the remainder of the workmen. This prayer is, in our opinion, very different from asking a tribunal to impose an incentive bonus scheme for the first time in a concern. We can see no reason why where an incentive bonus is in force, in a concern for the majority of its workmen, the tribunal should not be able to extend the same to the remainder of the workmen.”

8. Taking the above two judgement of Supreme Court into consideration I hold that this Court has power to examine the contents of Incentive Bonus Scheme and the fact whether the present category of workman could be excluded from its operation.

9. The Bank Note Press, Devas is a Government of India undertaking and the Government has to manage and run the factory keeping in mind the rights of the workman and Directive Principles of State Policies given in the Constitution of India. The Court are bound to evolve, affirm and adopt principles of interpretation which will further not hinder the goals set out in the Directive Principles of State Policies. As held by the Supreme Court the Award of the Industrial Court may contain provision of settlement of dispute when no Court could order if it was bound by ordinary law. But the Industrial Court is not fettered in any way by these limitations.

10. The employees working in office, dispensary, estate and canteen are required to work diligently and overtime to meet the rising demand of the management. For the purpose of production each section is complementary to other and the total contribution of employees result in production. Worker both in the factory and administrative office ensure that the Press works affectively and maximum production is given.

The Office Staff looks after the welfare of the Press Section. The dispensary looks after the health and hygiene. The estate looks after the building and grounds. The canteen meets the requirement of the sections operating the Press. The classification in the Group Incentive Scheme as Industrial and Non-Industrial is without any basis and arbitrary. If the staff in office, dispensary, and estate do not co-operate or slow down their activity the optimum production is not possible. Every employee whether working in the press, office, dispensary canteen and estate contribute their full mite towards production.

11. All employees doing similar jobs are entitled to similar wages. The management cannot create artificial classification of Industrial Employees and non-industrial employee. The management has failed to satisfy the Court how does an industrial employee is superior to non-industrial employee. In para 5 of the Written Statement the management has stated that an industrial employee is on whose presence is necessary for the efficient working of the Press. By no stress of imagination it is possible to run the press efficiently and keep out employees working in office, hospital and estate. For the efficient working of the Press all the three sections are required to co-operate in an efficient manner. Slow down by these section will result into stalemate and loss of production.

12. The management itself has given the benefit of this scheme to the employee of canteen from 1-11-86. The management has denied this section the benefit of the scheme upto 1-11-86. By the same reasoning the employee working in canteen should have been given benefit of the scheme from 1-1-78. Why should management give benefit to the canteen from 1-1-86 and not from 1-1-78 has not been explained by the management to this Court? It only shows that the approach of management is arbitrary and devoid of logic and rational.

13. The staff working in office, dispensary, estate has been given 25 per cent of the incentive from 1-7-82. I fail to understand the rational of giving 25 per cent of incentive bonus to these workman. If their utility to the productions is recognised by the management then there is no reason to pay them only 25 per cent. No document has been produced by the management that the contribution of present workman in production is only 25 per cent. This classification is arbitrary and without logic. The management cannot be permitted to perpetuate arbitrary classification amongst employees of management. Because of the introduction of Group Incentive Scheme the management has increased the production of Press. This increase in production generated more physical work and mental labour. This additional physical work and mental labour is shared by every section of the employee working in the Press including the present workman. Depriving them of the Bonus Scheme is unfair Labour practice and violative of Provisions of Constitution of India and Directive Principles of State Policy.

14. Under the Factory Act all the employees of Bank Note Press are covered by the definition of "Worker" and there is no distinction among worker and worker and employee and employee. Similarly

there cannot be a discrimination between employee and employee in the matter of financial matter.

15. The management has not filed a bi-partite settlement between the management and representative Union to the effect that the staff engaged in office, dispensary and estate be not be given Incentive Bonus Scheme. If such a bi-partite settlement is in existence it should have been filed by the management. Non-filing of the bi-partite agreement will lead to the conclusions that the management created, artificial classification and treated some employee an industrial employee and certain employee as non-industrial employee. The management cannot resort to such classification. The Security Paper Mill Hoshangabad is a sister concern of the present management and it is also under the Ministry of Finance, Government of India. In this mill the different Union and the Management signed a bi-partite agreement which is Annexure F in respect of Incentive Scheme. By this agreement the Security Paper Mill Hoshangabad is giving staff of office, state, office and canteen the same benefit of bonus as is being given to other staff. A similar step should have been taken by the management but they have not assigned any reason why they have not taken it for Bank Note Press Devas.

16. The Union has proved that there is arbitrary discrimination in respect of payment of bonus to employee working in Office estate, dispensary and canteen. The management could not justify the non-payment of bonus to these section of the staff from 1-1-78. The Award is given in favour of the Union. The employees of Bank Note Press working in Office dispensary and estate and canteen are eligible to the full benefit of Group Incentive Scheme Annexure 'A' from 1-1-78 onwards. All the arrear be paid to the staff in 3 months time from publication of Award. If this is not done the staff will be entitled to realise 12 per cent per annum interest on this amount. Parties to bear their own costs.

17. Copies of the Award be sent to Ministry of Labour, Government of India as per rules.

D. N. DIXIT, Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1999

का.आ. 3248.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिक्कुरिटी पेपर मिल्स, होशंगाबाद के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-10-99 को प्राप्त हुआ था।

[सं. एल-16011/5/89-आई आर/(डीयू)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 13th October, 1999

S.O. 3248.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as

shown in the Annexure, in the industrial dispute between the employers in relation to the management of Security Paper Mills, Hoshangabad and their workman, which was received by the Central Government on the 13-10-99.

[No. L-16011/5/89-IR(DU)]

KULDIP RAI VERMA, Desk Officer

### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)

PRESIDING OFFICER : SHRI D. N. DIXIT  
CASE NO. CGIT/LC(R)/(180)/90

The General Secretary,  
S.P.M. Employees Union,  
Type-II/63, Phase-II  
SPM Colony, Hoshangabad

... Union

V/s

General Manager,  
Security Paper Mill,  
Hoshangabad.

... Management

### AWARD

Delivered on this 9th day of September, 1999

1. The Government of India, Ministry of Labour vide order No. L-16011/5/89-IR DU dated 22-8-90 has referred the following dispute for adjudication by this Tribunal :

### SCHEDULE

“Whether the action of the management of the Security Paper Mills, Hoshangabad in not categorising S/Shri Gajanand Malviya, Chhotabir Meena, Suresh Chowdhary, Sunderlal Thakur, Shrikishan Irpache, Harisingh Imna, Nahar Singh & Phool Chand Mewari in skilled grade and revised scale Rs. 260-350 as per recommendation of Mehta Committee w.e.f. 1-3-79 is justified? If not, what relief is the concerned workman entitled to?”

2. The case of the Union is that the following workmen were appointed as unskilled paper boy in the Process Section of the finishing end of Security Paper Mill, Hoshangabad, on the dates mentioned against their names.

1. Chhotabir Meena	9-12-1971
2. Sunderlal Thakur	27-5-1968
3. Suresh Chandra Choudhary	17-2-1969
4. Shrikishan Irpache	22-9-1970
5. Harisingh Imna	15-11-1968
6. Gajanand Malviya	17-2-1969

These workmen were promoted as semi-skilled to the post of paper workers and posted in Trimming Sub-section.

3. The Union further states that in the year '73 Mehta Committee was appointed to study various jobs and to recommend the Scale of pay to be given to each category. This committee recommended that Sheet Trimming Section employees be treated as skilled grade and be kept in pay scale of 260-350. Automatically from the date of implementation of recommendations of this committee which is 1-3-79, the workers in the Trimming Sub-Section became skilled workers and were entitled to pay scale of Rs. 260-350.

4. Further contention of the Union is that the above mentioned workmen were not given pay scale of 260-350 on the ground that their attendance for the previous year were not good. This ground is arbitrary and does not find place in recommendations of Mehta Committee. These workmen have been given the pay scale 260-350 from subsequent dates. They have been denied this pay scale from 1-3-79. The workmen in the other sections were given the benefits of recommendations of Mehta Committee irrespective of their poor attendance.

5. Union prays that the 6 workmen named above be given scale of 260-350 from 1-3-79.

6. The case of the management is that after the receipt of the Report of Mehta Committee the management appointed a bi-partite committee to examine the Report and the bi-partite committee recommended that workman with the record of absence should not be absorbed in the pay scale of 260-350. By application of the bi-partite settlement the workmen were not given the pay scale of Rs. 260-350 from 1-3-79. The workmen were continuously absent in the year 1978-79 and thus were not entitled to this pay scale. The management seeks that this case be dismissed with costs.

7. The only ground taken by management for not giving pay scale of 260-350 to the workmen is that their attendance was irregular in the year 1978-79. The Mehta Committee conducted a job study for all unclassified industrial employees of Security Paper Mill, Hoshangabad. The jobs were put to different category according to the requirement of the work done by the employee. It means that work of the employees of this section was evaluated and then given the category like semi-skilled grade and skilled grade. Employees working in the Sheet Trimming Section were put to the skilled grade, in the pay scale of 260-350. These all the employees working on Sheet Trimming Section were put to the skilled grade by the Mehta Committee.

8. Every employee employed in the Sheet Trimming Section has got to be a skilled worker. It means that no semi-skilled worker will work in this section once the report of the Mehta Committee is accepted.

9. Mehta Committee did not recommend the scrutiny of workmen for being given the skilled grade. It simply raised the grade of the Sheet Trimming Section. Thus there was no occasion to examine the suitability of the employees to grant of pay scale in the grade of 260-350.

10. Prior to Mehta Committee the management has not taken action against the workmen for remaining

absent on duty. Had it been a serious misconduct action would have been taken against the workmen.

11. The management is relying upon bi-partite settlement reached between it and Trade Union on the report of the Mehta Committee. The management has not filed a copy of this settlement. Thus the management has failed to prove in this Court that because of bi-partite settlement those workers who were in the habit of remaining absent be not given pay scale of Rs. 260-350.

12. Management witness Shri N. K. Jain has stated that all the employees got the benefit of the recommendation of the Mehta Committee except the present workmen. He further stated that in other sections those workmen have received benefits who have been described as habitual absentees. Thus in the entire Security Paper Mill only the present workmen have not been given the pay scale of 260-350 on the ground of habitual absentism. The management has thus discriminated in its treatment to the employees on the same ground.

13. This Court in the case of Shri A. P. Sarate R(48)/81 decided on 6-4-83 that absence of the workman cannot be a ground for denying the benefits of upgradation as recommended by Mehta Committee. Thus the former Award of this Court also supports the case of the present 6 workmen.

14. The management cannot withhold pay scale of 260-350 of the workmen from 1-3-79. The workmen automatically were placed in the pay scale of 260-350 from 1-3-79 because recommendation of Mehta Committee were accepted by the management. The Award is given in favour of the 6 workmen. They are absorbed in the scale of 260-350 from 1-3-79 and he given all the monetary benefits attached to this scale, in 3 months time from the date of publication of this Award. In case the monetary benefits are not given the workmen will be entitled to interest @ 12 per cent per annum from this date till the realisation. Parties to bear their own costs.

15. Copies of the Award be sent to Ministry of Labour, Government of India as per rules.

D. N. DIXIT, Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1999

का.आ. 3249.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जनरल मैनेजर, सिक्यूरिटी पेपर मिल, होशंगाबाद के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-10-99 को प्राप्त हुआ था।

[सं. पत्र-16012/1/92-आई.आर./((डी.यू.))]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 13th October, 1999

S.O. 3249.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of

the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of General Manager, Security Paper Mills, Hoshangabad and their workman, which was received by the Central Government on 13-10-99.

[No. L-16012/1/92-IR(DU)]

KULDIP RAI VERMA, Desk Officer

## ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)

Presiding Officer : Shri D. N. Dixit.

CASE NO. CGIT/LC/R/144/93

Shri Ganesh Baggan,  
Ex-Safaiwala

.. Workman

Versus

The General Manager,  
Security Paper Mill,  
Hoshangabad

.. Management

## AWARD

Delivered on this 22nd day of September, 1999

1. The Government of India, Ministry of Labour vide order No. L-16012/1/92-IR(DU) dated 21-7-93 has referred the following dispute for adjudication by this tribunal :—

“Whether the action of the management of General Manager, SPM Hoshangabad in terminating the services of Shri Ganesh Baggan Ex-Safaiwala is justified ? If not, what relief the workmen concerned is entitled to ?”

2. The case of the workman, is that he was employed as a safaiwala. His services were terminated without holding any proper enquiry. The workman replied to the chargesheet. This reply was considered as admission and he was found guilty of the charge. He was removed from the services on pretext that he has pleaded guilty to the charge. The contention of the workman is that he has never pleaded guilty to the charge. The procedure adopted by the management is illegal and irregular. The termination of the workman is also irregular and illegal. Even on merits, the punishment imposed on the workman is harsh and disproportionate to the misconduct. The workman wants that he be reinstated and paid back wages and allowances. The case of the management is that workman was frequently absent in his duty and from Jan. 1985 to Dec. 1990, he remained absent for 810 days. He was issued with 5 chargesheets from the year 1985 to 1990. The workman was issued the 6th chargesheet. The workman admitted this charge in the enquiry and the Disciplinary Authority removed him from service. The workman filed an appeal which was dismissed by the Appellate Authority. The Management wants the reference to be answered in their favour.

3. In the written statement, at page-3, the management has stated that chargesheet No. 6 was issued to the workman about habitual absence and this he



admitted in the enquiry. On the basis of this admission the services of the workman has been terminated.

4. This chargesheet and admission of the workman has not been filed by the management. Management has also not filed the DE papers. The management was given time from 28-7-97 to file documents. Till 16-9-99, management has not filed any document. In the absence of the DE papers, the contention of the workman had been accepted that he has not pleaded guilty to the charge and the procedure adopted by the management is illegal and irregular.

5. The burden of proving the admission of the workman is on the management. The management has been careless and in spite of more than 2 years time given to them, they have not filed the alleged admission by the workman about his habitual absence from duty. This admission was the basis of termination of service of the workman. Once the admission of the workman is not proved, the termination of workman is illegal.

6. It is hereby declared that the termination of the service of the workman is illegal. He is deemed to be in service of the management. From the date of award, he be taken in service and paid wages and allowances. He will deem to be in continuous service. Since the workman did not perform any work from the date of termination till the date of award, the workman will not be entitled to wages and allowances for this period. The award is given in favour of the workman. Management to pay Rs. 2000 as cost to the workman.

7. Copies of the award be sent to Ministry of Labour, Government of India as per rules.

D. N. DIXIT, Presiding Officer

नई दिल्ली, 15 अक्टूबर, 1999

का.प्र. 3250—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी.सी.सी. एल. के प्रबंधन के संबंध विवादों और उनके कर्मचारों के बीच, संबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण; सं. 1, धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-10-99 को प्राप्त हुआ था।

[सं. एल-20012/315/89-आई आर (सी-I)]

व्याज स्वर गुप्ता, अधर सचिव

New Delhi, the 15th October, 1999

S.O. 3250:—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 1, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCC Ltd. and their workman, which was received by the Central Government on 12-10-1999.

[No. L-20012/315/89-IR.(C-1)]

S. S. GUPTA, Under Secy.

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d)(2A) of the Industrial Disputes Act, 1947.

Reference No. 65 of 1990

### PARTIES:

Employers in relation to the management of Putki-Balihari Area of M/s. B.C.C. Ltd.

AND

Their Workmen.

### PRESENT:

Shri Sarju Prasad, Presiding Officer.

### APPEARANCES:

For the Employers: Shri B. Joshi, Advocate.

For the Workmen: Shri R. R. Bhattacharjee, Advocate.

STATE: Bihar

INDUSTRY: Coal

Dated, the 29th September, 1999

### AWARD

By Order No. L-20012/315/89-I.R. (Coal-I) dated 'nil' the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

"Whether the demand of Shri Manoj Kumar Sinha, Typist-cum-Clerk, Postkee Balihari Area of M/s. Bharat Cooking Coal Limited, for reinstatement in service with full back wages is justified? If not, to what relief is the workman entitled to?"

2. The brief facts, giving rise to this reference is; that the concerned workman, Manoj Kumar Sinha, was Typist-cum-Clerk posted in the Civil Construction Department of Bhagalband Area No. 7 which is also known as Postkee-Balihari Area. During the period from December, 1981 to December, 1982 as many as 11 workmen were inducted into the employment of Bhagalband Area 7 on the basis of forged and fabricated letters of appointments issued under the forged signature of R. P. Singh, the then Dy. Personnel Manager (Manpower), incharge of recruitment of workmen at Karmik Bhawan of M/s. BCCL. The matter of fake appointments was enquired into and upon initial enquiry the complicity of this workman, Manoj Kumar Sinha came to light. Therefore a chargesheet dated 14/15-3-83 was issued to him under the signature of the General Manager/Chief Mining Engineer for commission of misconduct relating to induction of 11 workmen with the help of forgery and fraud. The copy of the chargesheet has been produced during hearing on preliminary issue and has been marked Ext. M-2/2. He replied to the chargesheet for denying the allegations levelled in the chargesheet. The management was not satisfied with the reply of the concerned workman, therefore constituted an enquiry and Sri S. N. P. Sinha, Personnel Manager was appointed the Enquiry Officer to enquire upon the charges against Manoj Kumar Sinha and five others who were alleged to have connived in the fraud played upon the management by inducting eleven employees on the basis of forged and fabricated appointment letters issued under forged signature of R. P. Singh, Dy. Personnel Manager (Manpower) from the Headquarters i.e. Karmik Bhawan, Dhanbad. The main allegation against the concerned workman is that although he was posted in the Civil Construction Department and has nothing to do with the Personnel Department and appointment and posting of the employees but the forged appointment letters were allegedly typed on the typewriter machine which was allotted to the concerned workman, Manoj Kumar Sinha and he had accompanied with the interested persons seeking employment on the basis of those forged and fabricated appointment letters to Area Office alongwith forged

appointment letters and deposited the appointment letters in the Area Office for issuing posting orders, he had requested for issue of posting orders. Thereafter, it is alleged that he got posting orders issued taking personal interest and accompanied the candidates on the basis of posting orders to the respective places of posting with the posting orders and got them joined there. It is further alleged that joining letters submitted by the fake appointees were prepared by this workman under his own handwriting. Thus he has played an active role in getting the eleven fake appointees posted on the strength of forged and fabricated appointment letters under forged signature of R. P. Singh, Dy. Personnel Manager (Manpower), Karmik Bhawan, BCCL Headquarters. The enquiry was conducted and the Enquiry Officer submitted his report who found the concerned workman guilty of the misconduct and on that basis the concerned workman was dismissed under the signature of General Manager/Chief Mining Engineer.

3. According to the management, the domestic enquiry was fair and proper and principle of natural justice was followed and the finding of the Enquiry Officer is reasonable and justified on the basis of material available on the record of the domestic enquiry. The concerned workman has disputed the domestic enquiry and has pleaded that the Enquiry Officer and the Presenting Officer were biased as he was an active member of a trade union and the enquiry was not at all fair and proper and finding of the Enquiry Officer is perverse not based upon the material evidence, rather the same is bias view and the concerned workman is not guilty of any misconduct. Therefore, the concerned workman is entitled for reinstatement with full back wages.

4. The question of fairness and propriety of the domestic enquiry was taken up as a preliminary issue and by order dated 6-9-96 the representative of the concerned workman, namely, Sri J. P. Singh, Advocate conceded that the domestic enquiry was fair and proper and accordingly the same was held proper and fair and the case was proceeded for hearing on merit.

5. This Tribunal had passed an award holding that the action of the management is justified and demand of Manoj Kumar Sinha, concerned workman, for reinstatement with full back wages is not at all justified. This award was challenged before Hon'ble Patna High Court, Ranchi Bench, Ranchi in CWJC No. 2657/97(R) which was allowed and the award submitted by this Tribunal has been set aside and the matter has been remanded back for passing of fresh award because the then Presiding Officer of this Tribunal had not reappraised the materials on record as required under Section 11-A of the I.D. Act.

6. Since the domestic enquiry has been held proper and fair, now the question for consideration is—

(i) Whether on reappraisal of evidence the finding of the Enquiry Officer is justified and reasonable?

(ii) Whether the demand of the concerned workman Manoj Kumar Sinha, for reinstatement in service with full back wages is justified?

7. The management has examined in all nine witnesses to prove the charge against the concerned workman and other chargesheeted workmen. The first witness of the management is MW-1—Sri M. B. Srivastava who had made preliminary investigation of the case of eleven fake appointments under forged signature of R. P. Singh, Dy. Personnel Manager (Manpower), Karmik Bhawan on the basis of endorsement of DIG/C.V.O., BCCL. From his evidence it appears that he has investigated the question of fake appointments and he has examined the concerned registers and has recorded the statements of several officials. He has elaborately dealt with in his evidence as to how he was satisfied that eleven appointments were on the basis of forged and fabricated appointment letters. The materials collected by him included that most of the despatch nos. in case of forged appointment letters did not tally with the despatch register of the Central Despatch Section of Karmik Bhawan. Some of the nos. in the fake appointment letters were found to be concerning some other letters on different subject. The nos. in some of the forged appointment letters were not shown in the Despatch Register even on the last date of relevant

year. The file no. in the forged appointment letters were given only "OO" were mentioned therein. Sri R. P. Singh under whose signature the forged appointment letters were alleged to have been issued was confronted and he has clearly denied the signature appearing in those forged appointment letters. The photographs of the candidates which should have been attested were not attested by the concerned officer. Besides his evidence Sri R. P. Singh who has been examined as MW-2 and Sri N. L. Singh, MW-9 have clearly stated that the eleven appointees were posted at Bhagaband Area No. 7 which is known as Pootkee-Balihari Area also and were deputed to work at Ekra Workshop, were posted on the strength of forged and fabricated letters of appointment. MW-7 Sri M. Prasad had also supported the fact of fake appointments who had also made preliminary enquiry into the alleged fake appointments. From the materials on record placed before the Enquiry Officer it is clearly established that the concerned eleven persons were appointed on the basis of forged and fabricated appointment letters and were posted under the signature of Sri V. R. Singh, Dy. Personnel Manager (Establishment) of Bhagaband Area on the strength of forged and fabricated appointment letters purported to be signed by Sri R. P. Singh, Dy. Personnel Manager (Manpower), Karmik Bhawan. The concerned workman has not challenged that those appointees were appointed on the basis of forged and fabricated appointment letters. Therefore, the factum of forgery in appointments and posting of eleven persons, namely, (1) Sanjay Kr. Sinha, (2) Chittaranjan Prasad, (3) Dayasankar Prasad, (4) Sobhnath Jeswara, (5) Surya Bhusan Prasad, (6) Kamdeo Prasad, (7) Baleshwar Yadav, (8) Vijoy Shankar Singh, (9) Ashok Kumar Barnwal, (10) Laxmi Narayan Singh and (11) Munji Singh at Bhagaband Area colliery under forged and fabricated appointment letters, is well established.

8. From the evidence of MW-1—M.B. Srivastava it appears that during the course of investigation he found that the concerned workman, Manoj Kr. Sinha and P. K. Sinha had accompanied with the fake appointees, Surya Bhusan Prasad and Kamdeo Prasad alongwith the appointment letters to the office chamber of the Sr. Accounts Officer and requested him to allow them to join their duties in Bhagaband Area office to which he did not agree on the morning of 31-12-81. Sri S. P. Singh, Sr. Accounts Officer who has been examined as MW-5 has supported this fact in his statement before the Enquiry Officer as well as before the Investigating Officer. Sri M.B. Srivastava, MW-1. His statement before the investigating Officer is Ext. M-44. Further, it appears that the concerned workman had personally handed over internal posting orders of the aforesaid two fake appointees to Sri B. S. Prasad, A.M.M., Regional Store, Ekra on 7-1-82. MW-5—Sri S.P. Singh has supported this fact before the Enquiry Officer as well as before the MW-1. From the evidence of MW-5 and MW-1 it further appears that the concerned workman, Manoj Kr. Sinha not only accompanied the two fake appointees alongwith internal posting orders to Sri B. S. Prasad, A.M.M. on 7-1-82 but also requested him to allow them to join duty. From the evidence of MW-1 it further appears that the concerned workman, Manoj Kumar Sinha, has personally handed over the forged and fabricated appointment letter Ext. M-31 in respect of Baleshwar Yadav at General Manager Secretariat and had handed over the same to Sri B. G. Dutta on 9-10-82. Sri Dutta who has been examined as MW-3 has supported this fact before the Enquiry Officer. From the evidence of MW-1 it further appears that the concerned workman, Manoj Kumar Sinha has confirmed this fact in his statement dated 2-2-83. Photostat copy of that statement is Ext. M-30. Not only this, the concerned workman has written the declaration letter of the said Baleshwar Yadav in his own handwriting with regard to his father's name and permanent address. Photostat copy of that declaration letter is Ext. M-63. The joining letter of the said Baleshwar Yadav was typed by the concerned workman which he has admitted in his statement Ext. M-30. He has also typed the joining letters of two other fake appointees, Vijoy Shankar Singh on 14-10-82 and Ashok Kumar Barnwal on 14-10-82 on his own typewriter. The forged and fabricated joining letters of Vijoy Shankar Singh and Ashok Kumar Barnwal Ext. M-49 was delivered at G. M. Secretariat on 14-10-82 by the concerned workman, Manoj Kumar Sinha. Sri B. G. Dutta, Despatch Clerk has supported this statement before the Enquiry Officer as well as before Investigating Officer. Similarly the forged and fabricated joining letter

Ext. M-50 in respect of Lakshmi Narain Singh and Munji Singh had also been handed over to G. M. Secretariat by this concerned workman, Manoj Kumar Sinha on 16-10-82 and after endorsement of General Manager he had received back the same on 20-10-82 and he has put his signature in token of having received the joining letter of Lakshmi Narain Singh and Munji Singh in Sl. No. 7642 of the Dak Receipt Register of the G. M. Secretariat at page 58. This register was perused by the Enquiry Officer and this fact has been supported by Sri B. G. Dutta, Despatch Clerk of the G. M. Secretariat. Similarly, the joining letter Ext. M-51 of Chittaranjan Prasad and Sobhnath Jeswara were also handed over at G. M. Secretariat by this very workman, Manoj Kumar Sinha on 29-10-82 and was subsequently collected by him under his signature on 30-12-82 as it appears from Sl. No. 7881 dated 29-10-82 of the Dak Receipt Register of G. M. Secretariat. This entry was also perused by the Enquiry Officer and this fact has been supported by Sri B. G. Dutta, MW-3. Furthermore, Manoj Kumar Sinha in his statement Ext. M-30 has admitted this fact, but according to him he has done so at the instruction of V. R. Singh. The concerned workman has further requested Sri S. C. Srivastava, Clerk of Personnel Department to make entry of the posting order dated 29-10-82 of Chittaranjan Prasad and Sobhnath Jeswara and Sri S. C. Srivastava did according which is clear from the statement of Sri S. C. Srivastava.

9. Further from the evidence of MW-1 it appears that after internal posting order Ext. M-58 under the signature of Sri V. R. Singh, Dy. Personnel Manager (Estt.) in respect of Chittaranjan Prasad and Sobhnath Jeswara was issued, the concerned workman, Manoj Kumar Sinha, had handed over the same at Ekra Workshop and had accompanied with the aforesaid two candidates. He had also requested Sri N. P. Chatterjee, Sr. Executive Engineer, Ekra Workshop to allow the said persons to join their duties and accordingly Sri Chatterjee allowed them. This fact has been supported by Sri N. P. Chatterjee in his statement before the Enquiry Officer who is MW-6. He has also supported this fact before MW-1 before investigation. Further it appears that the concerned workman, Manoj Kumar Sinha, had approached Sri N. L. Singh on 22-1-83 at his residence to enquire about the discussion held at Ekra Workshop on previous day, i.e., 21-1-83 when S/Sri R. P. Singh and N. L. Singh had gone there for enquiry regarding illegal appointments. Thus, from the evidence of MW-1 coupled with evidence of MW-3, MW-6 and MW-8 it is established that the concerned workman, Manoj Kumar Sinha, has played an active role in getting the fake appointees posted and see that they are allowed to join. He had not only produced the fake appointment letters at G.M.'s Secretariat, rather he after endorsement of General Manager had received back them and he had done all sorts of help to the fake appointees in getting them posted on the strength of forged and fabricated appointment letters.

10. MW-1 Sri M. B. Srivastava has further stated that all the alleged forged appointment letters Exts. M-45 to M-51 covering all the eleven fake appointees are believed to have been typed out on the same typewriter machine of the Civil Engineering Department which remains in the custody of the concerned workman, Manoj Kumar Sinha. He has demonstrated before the Enquiry Officer to prove this fact. It appears that "a" in coal as well as "A" in COAL goes down the line in the typewriter in the custody of the concerned workman, Manoj Kumar Sinha and in Exts. M-46, M-48, M-49, M-50 and M-51 there are similar defects as that of found in the typewriter in the custody of the concerned workman. Similarly "OK" in COKING are almost overlapping and touching in Exts. M-45, M-48, M-50 and M-51 and similar is the defect in the typewriter of Manoj Kumar Sinha.

11. From the statement of Sri B. N. Mishra before the Enquiry Officer it appears that this concerned workman along with T. C. Prasad used to receive all the Daks daily at the Central Despatch Section although the concerned workman has nothing to do with the business of Personnel Department. The most vital material against the concerned workman is that he had produced one fake posting order which was incomplete and purported to be issued from Karmik Bhawan dated 20-1-83 with respect to Sadashib Singh under the signature of Sri Samar Sinha, Personnel Manager (Manpower) which was yet to be issued for posting. Sri Samar

Sinha, Personnel Manager was confronted with this letter and he has denied his signature and this was verified from Despatch Register at Karmik Bhawan and found to be fake.

12. The other evidence of the management does not concern with this workman.

13. Therefore, from the reappraisal of evidence collected during the domestic enquiry I find that there is ample circumstantial evidence to prove the active complicity of the concerned workman, Manoj Kumar Sinha in getting the eleven persons inducted in the employment of M/s. B.C.C. Ltd. at Bhagaband Area on the basis of forged and fabricated appointment letters under the forged signature of Sri R. P. Singh, Personnel Manager (Manpower) of Karmik Bhawan of M/s. B.C.C. Ltd. The concerned workman has deposed in his defence and has denied the allegations made against him. He has come to say that he has been falsely implicated due to his trade union activities. But his evidence does not inspire confidence and his statement is not at all plausible and does not absolve him from proved materials against him. Therefore, I am satisfied that the finding of the Enquiry Officer that the concerned workman was guilty of the misconduct in getting eleven persons inducted in the employment of M/s. B.C.C. Ltd. on the basis of forged and fabricated appointment letters. Actually the concerned workman was a Typist-cum-Clerk in the Civil Engineering Department and therefore he has got no business to poke his nose in the matter of appointment and posting. But it appears that he was in active connivance with late V. R. Singh, Dy. Personnel Manager (Manpower) and with his active connivance the fake appointees have been inducted in the employment of M/s. B.C.C. Ltd. and thereby he has caused loss to the company and has committed breach of faith and dishonesty upon the company. Therefore, in my opinion, the action taken by the management is fully justified.

14. So far the authority of the General Manager/Chief Mining Engineer in initiating disciplinary action against him to get him dismissed is not at all disputed. I do not find any other infirmity in the order of dismissal. Therefore, in my opinion, the demand of the concerned workman for reinstatement with full back wages is not justified and he is not entitled to any relief. The punishment is not at all disproportionate to misconduct.

15. In the result, I render the award that the demand of the concerned workman, Manoj Kumar Sinha, Typist-cum-Clerk, Pootkee-Ballihari Area for reinstatement with full back wages is unjustified and he is not entitled to any relief.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 15 अक्टूबर, 1999

का.आ. 3251.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसेज बी.सी.सी.एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में, निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, सं. 2, धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-10-99 को प्राप्त हुआ था।

[सं. एल-20012/488/95—आई आर (सी-1)]

श्याम सुन्दर गुप्ता, अवसर सचिव

New Delhi, the 15th October, 1999

S.O. 3251.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCC Ltd. and their workman,

which was received by the Central Government on 12-10-99.

[No. L-20012/488/95-IR(C-I)]

S. S. GUPTA, Under Secy.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL (NO. 2), AT  
DHANBAD

#### PRESENT :

Shri B. B. Chatterjee, Presiding Officer.  
In the matter of an Industrial Dispute under Section  
10(1)(d) of the I. D. Act, 1947.

Reference No. 15 of 1997

#### PARTIES :

Employers in relation to the management of  
Phularitand Colliery of M/s. BCCL and  
their workmen.

#### APPEARANCES :

On behalf of the workman—None.

On behalf of the employers.—None.

STATE : Bihar. INDUSTRY : Coal.

Dated, Dhanbad, the 6th October, 1999.

#### AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/488/95-IR(C-I), dated, the 14th January, 1997.

#### SCHEDULE

"Whether the action of the General Manager, Barora Area of M/s. BCCL, P.O. Nawagarh in dismissing Shri Binuletana Beldar Wagon Loader w.e.f. 25-3-94 is justified? If not, to what relief is the concerned workman entitled?"

2. In this reference none of the parties turned up before this Tribunal nor took any steps although notices were served upon them. The reference is pending since 1997 and it is of no use to drag the same any more. Under such circumstances, a 'No dispute' Award is being rendered and the reference is disposed of on 'No dispute' Award basis on the presumption of non-existence of any industrial dispute between the parties presently.

B. B. CHATTERJEE, Presiding Officer.

नई दिल्ली, 15 अक्टूबर, 1999

का.प्र. 3252.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ईस्टर्न कोलफील्ड्स लिमि. के प्रबंधन के संबंध

नियोजकों और उनके कर्मचारों के बीच, अनुबंध में, निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. 2, धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-10-1999 को प्राप्त हुआ था।

[सं. एल-20012/256/94-आई आर(सी-1)]

श्याम सुन्दर गुप्ता, अवर सचिव

New Delhi, the 15th October, 1999

S.O. 3252.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. E.C. Ltd. and their workman, which was received by the Central Government on 13-10-99.

[No. L-20012/256/94-IR(C-I)]

S. S. GUPTA, Under Secy.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL (NO. 2) AT DHANBAD  
PRESENT

Shri B. B. Chatterjee,

Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)  
(d) of the I.D. Act, 1947.

REFERENCE NO. 2 OF 1996

#### PARTIES

Employers in relation to the management of Eastern  
Coalfields Ltd. and their workmen.

#### APPEARANCES :

On behalf of the workman : Shri D. Mukherjee, Advocate.

On behalf of the employers : Shri B. Joshi, Advocate.

State : Bihar. Industry : Coal.

Dated, Dhanbad, the 6th October, 1999

#### AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/256/94-IR. (Coal-I), dated, the 30th November, 1995.

#### SCHEDULE

"Whether the action of the management of Kapsara Area of M/s. Eastern Coalfields Ltd. in dismissing Shri Md. Samid, Mining Shirdar from the service of the company is justified? If not, to what relief is the workman concerned entitled?"

2. The concerned workman, Md. Samid has made out a case in his written statement to the effect that he had been working as permanent Mining Shirdar at Lakhimata Colliery of M/s. Eastern Coalfields Ltd. for pretty long time. The management falsely started a Criminal case against the concerned workman by lodging information with police alleging theft of detonator from the store of the management and during the pendency of the Criminal case the G.M. of Kapsara Area by letter dated 13-5-93 terminated the services of the concerned workman without following the mandatory provisions of principles of natural justice. The concerned workman was never served with any chargesheet and no departmental enquiry was conducted for the alleged thief for alleged loss of confidence and thus no opportunity was afforded to the concerned workman before terminating his services although he served continuously by putting more than 240 days in each calendar year.

3. That the provisions of Section 25F were not complied with while terminating the services of the concerned workman.

4. That the concerned workman was acquitted in the Criminal case and he represented the management for his reinstatement on several times but to no purpose compelling him to raise an industrial dispute before the ALC(C) Dhanbad but that also did not serve any beneficial purpose because of adamant attitude of the management and report having submitted by the ALC(C) Dhanbad to the Govt. the dispute has been referred to this Tribunal for adjudication registered as reference case. Hence the reference.

5. The action of the management in dismissing Md. Samid was not at all justified. The order was illegal, arbitrary, against the provisions of Certified standing order and principles of natural justice & at the same time in violation of the mandatory provisions of the I.D. Act. The punishment is also harsh and disproportionate. The workman has, therefore prayed for an order directing the management to reinstate him with full back wages and consequential benefits.

6. The management side also submitted their written statement wherein they have challenged the maintainability of the present reference and made out a case which may be stated as follows:—

That the concerned workman as Mining Sirdar was entrusted with the duties of shodhring in the underground incline mine of Lakhmata colliery of M/s. E.C.L. for winning coal with the help of explosives and detonators either himself or with the assistance of his helper under his supervision for which the concerned workman was required to requisition explosives cartridges and detonators in a particular shift. A confidential report was submitted to the Agent of the colliery against the concerned workman complaining his indulgence in pilferage of explosive and detonators from the mine specially during night shift and selling the same to the anti social elements. The Agent of the colliery on receiving such report, utilised source and came to know that on 4-5-93 the concerned workman requisitioned 24 Nos. of detonators and 48 No. of explosives cartridges and made entry in the relevant register showing use of all those explosive cartridges and detonators although it was not at all a fact and that he carried four no. of cartridges in a bag to his house. On the following day on being challenged by the Agent of the colliery he admitted that those four cartridges were defective for which he took away the same and destroyed those. It was his duty to return those to the magazine clerk for destruction under the rules with prior permission of the explosive Inspector.

7. The management in view of the conduct of the concerned workman issued a chargesheet against him. The concerned workman submitted his reply to the same and denied the charges. The management constituted a departmental enquiry which was conducted under the principles of natural justice. The concerned workman having found guilty of gross misconduct in that enquiry was dismissed from service while under suspension. The order of dismissal passed against the concerned workman was legal, bonafide and quite justified. The concerned workman is therefore not entitled to any relief.

8. In addition to the case made out in the W.S. the management side has also submitted rejoinder giving parawise comments in respect of the contents of different paras of the written statement of the workman denying illegality etc. of the order of dismissal passed against the concerned workman.

9. The point of decision is whether the concerned workman is entitled to an order directing the management to reinstate him with full back wages and consequential benefits.

#### DECISIONS AND REASONS

10. In this case the parties abstained from adducing any evidence either oral or documentary. It was submitted on the side of the workman in the absence of any evidence the order of dismissal passed against him on the ground of gross misconduct alleged to have been levelled against him by the so called chargesheet claimed to have been issued should be

treated as not only unjustified but illegal too. In that view of the matter, it was submitted that an order directing the management to reinstate the concerned workman with full back wages and other consequential benefits should be passed. On the other hand it was submitted by learned Advocates for the management that since the management has failed to produce papers showing issuance of chargesheet against the concerned workman and conducting departmental enquiry it was not possible for learned Advocate to advance any argument in support of the action of the management. The fairness of the departmental enquiry have not been challenged for which preliminary point has been decided in favour of the management by order No. 33 dated 27-7-99 but in spite of that the management side failed to produce either the so called chargesheet or paper showing conducting departmental enquiry against the concerned workman. The management has also failed to produce papers showing compliance of the mandatory provisions of Section 25F of I.D. Act. In the absence of such papers and or absence of evidence there is no way out but to hold that the action of the management of Kapasara Area of M/s. Eastern Coalfield Ltd. in dismissing Md. Samid, Mining Sirdar, the concerned workman from service of the company is not at all justified. The concerned workman is therefore entitled to the relief prayed for in the W.S. I direct the management to reinstate the concerned workman within three months from the date of publication of this award with full back wages and consequential benefits.

This is my Award.

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 15 अक्टूबर, 1999

का.आ. 3253.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार संसद एच.पी.सी.एल. के प्रबंधक के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में, निर्विष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-10-99 को प्राप्त हुआ था।

[य. एल-30012/12/96-आर आर (सी-1)]

प्रियम सुन्दर गुप्ता, अवर सचिव

New Delhi, the 15th October, 1999

S.O. 3253.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. H. P. C. Ltd. and their workmen, which was received by the Central Government on 12-10-99.

[No. I-30012/12/96-IR(C-I)]

S. S. GUPTA, Under Secy.

#### ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)

PRESIDING OFFICER SHRI D. N. DIXIT

CASE NO : CGIT/LC(R)/210/96

Petroleum Employees Union,  
Through Shri Kishore Dhamane

Local Representative

HPCL LPG Bottling Plant

Mauria Pilsand

District-Rajpur (M.P.)

.. WORKMAN

V/s

## 1. Hindustan Petroleum Corporation Ltd.,

Through its Regional Manager  
Vishaka Regional Office  
Opposite University Gate  
Waltare Park  
China Waltare  
Vishakapattanam.

## 2. The Custodian

Parel Investment and Trading Co.,  
Karim Pud Layout  
Vishakapattanam

MANAGEMENT

## AWARD

Delivered on this 29th day of September, 1999

1. The Government of India, Ministry of Labour vide order No. L-30012/12/96-IR (Coal-I) dated 28-Nov. 1996 has referred the following dispute for adjudication by this Tribunal :—

“Whether the demand by the Union for providing status of employees of Hindustan Petroleum Corp. Ltd., to Shri K. C. Dhurandhar and 25 others (as given below) and their claim for absorption by the management is legal and justified? If so, to what relief are these workmen entitled?”

1. Sh. H. C. Markam,
2. Sh. C. S. Soni.
3. Sh. P. S. Rao.
4. Sh. V. S. Thakur.
5. Sh. L. C. Gayakwar.
6. Sh. C. L. Dewan.
7. Sh. R. L. Yadav.
8. Sh. Dewan.
9. Sh. T. L. Sahu.
10. Sh. D. S. Deep.
11. Sh. A. K. Thakur.
12. Sh. P. S. Dhruw.
13. Sh. H. L. Sahu.
14. Sh. P. K. Singh.
15. Sh. J. L. Sonwani.
16. Sh. D. S. Sahu.
17. Sh. V. K. Kesharwani.
18. Sh. V. K. Sahu.
19. Sh. K. B. Dhamue.
20. Sh. B. P. Nipane.
21. Sh. P. R. R. Rao.
22. Sh. G. Kamaya.
23. Sh. A. A. N. Verma,
24. Sh. S. K. Jha.
25. Sh. P. C. Bhattacharya.

2. The management remained absent from 16-04-99 to 28-09-99. The management was proceeded ex-parte.

3. The case of the Union is that the East Coast Gas Company opened a LPG bottling and Gas plant at Raipur. This Company was taken over by Parel Investments & Trading Company Ltd. on 02-09-78. The Government of India, by Act. No. 29/79 has taken over the management of Parel Investigation & Trading Co. as the custodian of the undertaking and thus the former Parel Investment & Trading Co. has been amalgamated with Hindustan Petroleum Corporation Ltd. and become a Company owned by the Government of India.

4. Further the contention of the Union is that on 20-05-88 and advertisement was given by Hindustan Petroleum Corporation to fill up the various post from open competition. the 26 people appeared in the written test and then interview and were selected for appointment. Appointment Order were given to all 26 people by Hindustan Petroleum Corporation. The Identity Card were given by Hindustan Petroleum Corporation. The management has played a trick with the Union and given employment to 26 people in the Parel Investment Trading Co. This action of the management is unfair. The Union is taking up this issue from 16-08-91 onwards.

5. Because the 26 employees are appointed in Parel Investment & Trading Co. they are not getting pay and promotion at par with employees of Hindustan Petroleum Corporation Ltd. The Union wants that Hindustan Petroleum Corporation Ltd. be directed to absorb these 26 employees in their company.

6. The contention of the Union is supported by the affidavit of Sh. Prem Singh Dhruw, and Sh. Dharmendra Singh Deep. There is no reason to disbelieve these 2 affidavits. The version of the Union is supported by document Ex. P 12, P31. The management has deliberately choosen to remained absent. They have not led evidence out of their own free will. The Act was passed and notification published in the Gazette of India dated : 26-05-79. The contention of the management is that the Law Ministry has not taken a decision hence the management could not act. The Hindustan Petroleum Corporation Ltd. and Ministry of Labour are both organs of the Central Government. If for 20 years the two organs of the Government are not working in harmony, the employees cannot be allowed to suffer. The Management should find out its own cure in respect of rules and regulation. The employees cannot be made to suffer because one organ of the Government is in efficient and beyond control.

7. In the present case the advertisement was given by the Hindustan Petroleum Corporation. The selection process was conducted by Hindustan Petroleum Corporation. The identity card were given by Hindustan Petroleum Corporation. The present 26 employees are drawing difference pay and subject to different condition of service they are employees of the Hindustan Petroleum Corporation. This state of affairs is arbitrary and illegal. The management has no business to treat present 26 employees on a different scale and the employees of the Hindustan Petroleum Corporation on a different scale.

8. The Award is given in favour of the Union. The Hindustan Petroleum Corporation is directed to absorb all the employees named in the reference as employees of the Hindustan Petroleum Corporation Limited. They should be given all the benefits admissible to the employees of Hindustan Petroleum Co. Ltd. from the date of appointment. The management is directed to pay Rs. 10,000/- as cost to the Union for this case.

9. Copies of the Award be sent to Ministry of Labour, Government of India as per rules.

D. N. DIXIT, Presiding Officer

(रोजगार एवं प्रशिक्षण महानिदेशालय)

नई दिल्ली, 21 अक्टूबर, 1999

का.सा. 3254 :—केन्द्रीय सरकार शिक्ष अधिनियम, 1961 (1961 का 52) की धारा 2 के खंड (इ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और केन्द्रीय शिक्षा परिषद से परामर्श के पश्चात् उक्त अधिनियम के प्रयोजनों के लिए इंजीनियरी या प्रौद्योगिकी में निम्नलिखित विषयों को अभिहित व्यवसाय के रूप में विनिर्दिष्ट करती है अर्थात् :—

1. वायुयान अनुसंधान इंजीनियरी
2. मैक्रोनैक्स

3. सीमेंट प्रौद्योगिकी

4. सूचना प्रौद्योगिकी

[फा. सं. डी. जी. ई. टी. 23/12/2812/99-ए. पी.]  
सरिता मिस्तल, उप सचिव

(Directorate General of Employment and Training)  
New Delhi, the 21st October, 1999

S.O. 3254.—In exercise of powers conferred by clause (c) of section 2 of the Apprentices Act, 1961 (52 of 1961), and after consultation with the Central Apprenticeship Council, the Central Government hereby specifies the following subject fields in engineering or technology as designated trades for the purposes of the said Act namely :—

1. Air Craft Maintenance Engineering.
2. Mechatronics.
3. Cement Technology.
4. Information Technology.

[F. No. DGET-23/12/2812/99-API]  
SARITA MITTAL, Dy. Secy.

नई दिल्ली, 26 अक्टूबर, 1999

का.आ. 3255 :— उत्प्रवास अधिनियम, 1983 (1983 का 31) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार श्री दीन बन्धु सिंह, अनुभाग अधिकारी, रक्षा मंत्रालय नई दिल्ली को दिनांक 18 अक्टूबर, 1999 (पूर्वाह्न) से उत्प्रवासी संरक्षी, चण्डीगढ़ के रूप में नियुक्त नियुक्त करती है।

[सं. एस-11011/1/98-उत्प्रवास]  
एस. वी. कृष्णन, अवसर सचिव

New Delhi, the 26th October, 1999

S.O. 3255.—In exercise of the powers conferred by Section 3, Sub-section (1) of the Emigration Act, 1983 (31 of 1983), the Central Government hereby appoints Shri Deen

Bandhu Singh, Section Officer, in the Ministry of Defence as Protector of Emigrants, Chandigarh with effect from 18th October, 1999. (F.N.).

[No. S-11011/1/98-Emig.]  
S. V. KRISHNAN, Under Secy.

नई दिल्ली, 26 अक्टूबर, 1999

का.आ. 3256 :—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उपधारा-(3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 दिसम्बर, 1999 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 अध्याय-5 और 6 (धारा-76 की उप धारा-(i) और धारा-77, 78, 79 और 81 के सिवा जो पहले ही प्रवृत्त की जा चुकी हैं) के उपरान्त हिमाचल प्रदेश राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

“जिला शिमला के नगर निगम, शिमला के नगरपालिका क्षेत्र की सीमाओं के अस्तित्व आने वाले क्षेत्र”।

[सं. एस-38013/30/99-एस.एस.-I]  
जे.पी. शुक्ला, उप सचिव

New Delhi, the 26th October, 1999

S.O. 3256.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st December, 1999 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapters V and VI (except sub-section (i) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Himachal Pradesh namely :—

“The areas falling within the limits of Municipal area of Municipal Corporation, Shimla in the District of Shimla.”

[No. S-38013/30/99-SS.I]  
J. P. SHUKLA, Dy. Secy.

